



RECEIVED

JUN 20 2013

ECEJ

1800 Larimer St., Suite 1300
Denver, Colorado 80202

June 18, 2013

Kenneth Champagne
U.S. Environmental Protection Agency (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

Tina Artemis
Regional Hearing Clerk
U.S. Environmental Protection Agency (8RC)
1595 Wynkoop Street
Denver, CO 80202-1129

**RE: Record of Payment - Public Service Company of Colorado, Georgetown Forebay
Docket No. CWA-08-2013-0011**

Dear Mr. Champagne and Ms. Artemis,

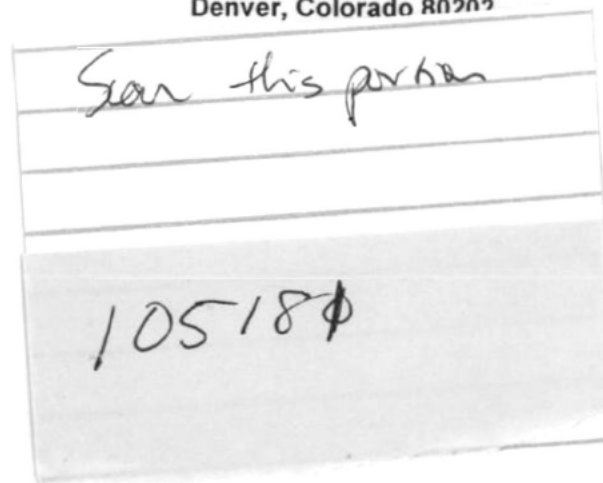
Public Service Company of Colorado, an Xcel Energy company, made a wire transfer payment to EPA on June 14, 2013 concerning the above referenced docket. Pursuant to Section 35 of the Combined Complaint and Consent Agreement, I am providing this transmittal letter and attached record of payment to your office. The record of payment consists of a screen print from our accounts payable system that has been annotated to highlight the wire transfer payment information. Please feel free to contact me at 303-294-2165 or quinn.v.kilty@xcelenergy.com if you have any questions concerning this documentation.

Sincerely,

Quinn V. Kilty
Manager, Environmental Compliance

Attachment – Wire Transfer Record of Payment

Cc: Kristen Carney, PSCo



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1800 Larimer St., Suite 1300
Denver, Colorado 80202

See this person

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Sincerely,

Quinn V. Kilty
Manager, Environmental Compliance

Attachment – Wire Transfer Record of Payment

Cc: Kristen Carney, PSCo

Accounting ▶ Payment ▶ Audit ▶ Notes ▶



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202
Phone 800-275-9000
<http://www.epa.gov>

April 18,

Ref: 8ENF-L

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Gunderson, Director
Colorado Department of Public Health
and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Re: Notice of Proposed Combined Complaint and
Consent Agreement
Docket No. CWA-08-2013-0011

Dear Mr. Gunderson:

Enclosed is a copy of an executed Combined Complaint and Consent Agreement (CCCA) in the matter of Public Service Company of Colorado (Respondent). The United States Environmental Protection Agency (EPA) is proposing to enter into the CCCA pursuant to section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g), and 40 C.F.R. section 22.13(b) to simultaneously commence and settle administratively a Class II civil penalty action against the Respondent. On September 21-22, 2011, the Respondent discharged dredged and/or fill material into South Clear Creek in Georgetown, Colorado, without a permit, in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), which prohibits the discharge of a pollutant unless authorized by a permit issued under section 404 of the CWA, 33 U.S.C. § 1344. While the section 404 program is not a CWA authorized program in Colorado, EPA is providing notice to you pursuant to CWA section 309(a), 33 U.S.C. § 1319(a), because the violations occurred in Colorado. You or your staff may request a conference within forty (40) days of receiving this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed assessment.

A copy of EPA procedures governing the administrative assessment of civil penalties under the CWA is enclosed for your reference. If you have any questions, the most knowledgeable person on my staff for legal issues is Wendy Silver, Senior Enforcement Attorney, who can be reached at 303-312-6637. The



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

April 18, 2013

Ref: 8ENF-L

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steve Gunderson, Director
Colorado Department of Public Health
and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

Re: Notice of Proposed Combined Complaint and
Consent Agreement
Docket No. CWA-08-2013-0011

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Enclosed is a copy of an executed Combined Complaint and Consent Agreement (CCCA) in the matter of Public Service Company of Colorado (Respondent). The United States Environmental Protection Agency (EPA) is proposing to enter into the CCCA pursuant to section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g), and 40 C.F.R. section 22.13(b) to simultaneously commence and settle administratively a Class II civil penalty action against the Respondent. On September 21-22, 2011, the Respondent discharged dredged and/or fill material into South Clear Creek in Georgetown, Colorado, without a permit, in violation of section 301(a) of the CWA, 33 U.S.C. § 1311(a), which prohibits the discharge of a pollutant unless authorized by a permit issued under section 404 of the CWA, 33 U.S.C. § 1344. While the section 404 program is not a CWA authorized program in Colorado, EPA is providing notice to you pursuant to CWA section 309(a), 33 U.S.C. § 1319(a), because the violations occurred in Colorado. You or your staff may request a conference within forty (40) days of receiving this letter. The conference may be in person or by telephone and may cover any matters relevant to the proposed assessment.

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most knowledgeable person on my staff for technical issues is Kenneth Champagne, Section 404 Enforcement Officer, who can be reached at 303-312-6608.

Sincerely,

for *Eddie A. Sierra*
Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Enclosure:

Combined Complaint and Consent Agreement

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2013 APR 18 AM 11:03

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Public Service Company of Colorado
1800 Larimer Street, Suite 1100
Denver, Colorado 80202

Respondent.

**COMBINED COMPLAINT AND
CONSENT AGREEMENT**

Docket No. CWA-08-2013-0011

Complainant, the United States Environmental Protection Agency, Region 8 (EPA or Complainant) and Respondent, Public Service Company of Colorado (Respondent), by their undersigned representatives, hereby consent and agree as follows:

I. STATUTORY AUTHORITY

1. This matter is subject to 40 C.F.R. Part 22. This Combined Complaint and Consent Agreement (Consent Agreement) is entered into by the parties for the purpose of simultaneously commencing and concluding this matter, as authorized by 40 C.F.R. § 22.13(b), and executed pursuant to 40 C.F.R. § 22.18(b)(2) and (3).
2. The EPA has jurisdiction over this matter pursuant to section 309(g)(1)(A) and (2)(B) of the Clean Water Act (Act), 33 U.S.C. § 1319(g)(1)(A) and (2)(B).

II. PARTIES BOUND

3. The Consent Agreement, upon incorporation into a Final Order, applies to and is binding upon Complainant and upon Respondent, and Respondent's officers, directors, agents, successors and assigns. Any change in ownership of the Georgetown Hydro-Electric Generating Station or in corporate organization, structure or status of Respondent including, but not limited to, any transfer of assets or real

or personal property shall not alter any of Respondent's responsibilities under this Consent Agreement unless Complainant, Respondent and the transferee agree in writing to allow the transferee to assume such responsibilities. Additionally, thirty (30) days prior to such transfer, Respondent shall notify Complainant at the address specified in paragraph 35 of this Consent Agreement of the pending transfer.

III. STATEMENT OF THE PARTIES

4. For the purposes of this settlement only, Respondent admits the jurisdictional allegations; however, Respondent neither admits nor denies the specific factual allegations contained herein and makes no admission of any violation of law in entering into this Consent Agreement.
5. Respondent retains the right to controvert in any subsequent proceedings, other than proceedings to implement or enforce this Consent Agreement, the validity of any issue of law or fact set forth in this Consent Agreement. In any proceeding to enforce this Consent Agreement, Respondent waives its right to a hearing before any tribunal to contest any issue of law or fact set forth in this Consent Agreement. Respondent further waives its right to appeal the Final Order in this matter.
6. Complainant asserts that settlement of this matter is in the public interest, and Complainant and Respondent agree that entry of this Consent Agreement and its incorporation into a Final Order without further litigation and without adjudication of any issue of fact or law will avoid prolonged and complicated litigation between the parties.
7. This Consent Agreement contains all settlement terms agreed to by the parties.

IV. GENERAL ALLEGATIONS

8. Respondent is a corporation incorporated under the laws of the State of Colorado. The address of the registered office for Respondent is 1800 Larimer Street, Suite 1100, Denver, Colorado 80202.
9. Respondent is an electric and gas utility provider in Colorado.

10. Respondent is and was at all relevant times a "person" within the meaning of section 502(5) of the Act, 33 U.S.C. § 1362(5).

11. At all relevant times, Respondent owned, managed, operated and/or otherwise controlled property known as the Georgetown Hydro-Electric Generating Station, located in Georgetown, Clear Creek County, Colorado (the Site). The Site encompasses the Georgetown Forebay Dam and Reservoir.

12. The Georgetown Forebay Dam has a low-level outlet valve that discharges into South Clear Creek.

13. The low-level outlet valve referenced in paragraph 12 is and was at all relevant times a "point source" within the meaning of section 502(14) of the Act, 33 U.S.C. § 1362(14).

14. South Clear Creek is a "waters of the United States" within the meaning of 33 C.F.R. § 328.3(a) and therefore "navigable waters" within the meaning of section 502(7) of the Act, 33 U.S.C. § 1362(7).

V. SPECIFIC ALLEGATIONS

15. At or about 9:30 A.M. on September 21, 2011, Respondent, or persons acting on its behalf, opened the low-level outlet valve on the dam at the Site for the purpose of drawing down the reservoir in order to inspect the valve and obtain information for a future maintenance project. Flow through the valve discharges to South Clear Creek.

16. At approximately 4 P.M. on September 21, 2011, the Clear Creek County Sheriff's Office reported to the 24-hour Incident Hotline of the Colorado Department of Public Health and the Environment (CDPHE) a discharge of mud and silt from the Site to South Clear Creek.

17. At approximately 8:00 A.M. on September 22, 2011, representatives of Respondent met at the Site and observed that the water being drained through the low-level outlet valve to South Clear Creek was clear. Beginning at around 9:30 A.M., they observed increased turbidity in the water being

discharged through the low-level outlet valve to South Clear Creek and, between approximately 10:00 and 10:30 A.M., the representatives partially closed the low-level outlet valve from 30 inches to 6 inches. Respondent's representatives reported that the turbidity ceased almost immediately upon the partial closure of the valve.

18. On September 30, 2011, the U.S. Army Corps of Engineers (Corps) visited the Site and observed areas of newly-deposited sediment along the edges of South Clear Creek.

19. On January 24, 2012, the EPA sent Respondent a Request for Information pursuant to section 308 of the Clean Water Act, 33 U.S.C. § 1318 (First Request for Information), requesting information about the reservoir drawdown.

20. On February 24, 2012, Respondent responded to the EPA's First Request for Information, providing, among things, Respondent's position that any turbidity occurring during the reservoir drawdown was de minimis and that the drawdown event was exempt from regulation under section 404(f)(1)(B) of the Act, 33 U.S.C. § 1344(f)(1)(B), as a dam maintenance activity.

21. On March 26, 2012, the EPA sent Respondent a Second Request for Information pursuant to section 308 of the Clean Water Act, 33 U.S.C. § 1318 (Second Request for Information), seeking additional information about the event and the Respondent's position.

22. On April 25, 2012, Respondent responded to the EPA's Second Request for Information providing, among other things, an estimate of the amount of sediment discharged through the low-level outlet valve and other information related to the event and its position.

23. The EPA disagrees with Respondent's position that the drawdown was de minimis and exempt from regulation under the Act as a dam maintenance activity.

24. On June 28, 2012, the EPA notified Respondent that it was preparing to file an administrative complaint seeking administrative penalties for a claim arising under the Act relating to the unpermitted discharge of pollutants from the dam at the Site.

25. Respondent subsequently agreed to settle this matter with the EPA subject to the reservations in paragraph 4 herein.

26. The mud, silt, turbid water, and sediment referenced in paragraphs 16 - 18 constitute material dredged from the Georgetown Forebay Reservoir.

27. The activities described in paragraph 15, above, resulted in the discharge of dredged material to South Clear Creek.

28. The discharges described in paragraphs 15 - 18, above, were from a "point source" within the meaning of section 502(14) of the Act, 33 U.S.C. § 1362(14).

29. The dredged material referenced in paragraph 26 constitutes "pollutants" within the meaning of section 502(6) of the Act, 33 U.S.C. § 1362(6).

30. The Respondent's activities as described in paragraphs 15 and 17, above, constitute the "discharge of pollutants" within the meaning of the definition set forth in section 502(12) of the Act, 33 U.S.C. § 1362(12).

VI. DESCRIPTION OF THE VIOLATION

31. Respondent neither applied for nor received a permit to discharge dredged or fill material into South Clear Creek and has not been authorized by any permit issued under section 404 of the Act, 33 U.S.C. § 1344, to allow unauthorized discharges to remain.

32. The discharges of pollutants from a point source by Respondent into waters of the United States described in paragraphs 15 and 17, above, were carried out without the required permit issued by the

Corps pursuant to section 404 of the Act, 33 U.S.C. § 1344, and, therefore, constitute violations of section 301 of the Act, 33 U.S.C. § 1311.

VII. CIVIL PENALTY

33. Pursuant to section 309(g)(2)(B) of the Act, 33 U.S.C. § 1319(g)(2)(B), and after consideration of the facts of this case as they relate to the factors set forth in section 309(g)(3) of the Act, 33 U.S.C. § 1319(g)(3), the EPA has determined that a civil penalty of \$14,400.00 is appropriate to settle this matter, to be paid within thirty (30) days of receipt of the Consent Agreement and signed Final Order issued by the Regional Judicial Officer.

34. Respondent consents and agrees to the assessment and payment of the civil penalty cited in the foregoing paragraph for settlement purposes.

35. Respondent shall pay the agreed upon civil penalty by one of the following methods:

a. **Payment by cashier's or certified check:**

A cashier's or certified check, including the name and docket number of this case, for \$14,400.00, payable to "Treasurer, United States of America," to:

Regular Mail:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Overnight Mail:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

b. **Wire Transfer:**

Wire transfers should be directed to the Federal Reserve Bank of New York with the following information:

ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

c. **On Line Payment:**

This option is available through the Department of the Treasury.

www.pay.gov

Enter sfo 1.1 in the search field.

Open form and complete the required fields.

Copies of the check or record of payment shall be sent to:

Kenneth Champagne
U.S. Environmental Protection Agency (8ENF-W)
1595 Wynkoop Street
Denver, CO 80202-1129

and

Tina Artemis
Regional Hearing Clerk
U.S. Environmental Protection Agency (8RC)
1595 Wynkoop Street
Denver, CO 80202-1129

A transmittal letter identifying the case title and docket number must accompany the remittance and copies of the check.

36. In the event payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received (i.e., on the 1st late day, 30 days of interest will have accrued).

37. In addition, a handling charge of fifteen dollars (\$15.00) shall be assessed the 31st day from the due date of the payment, and for each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date. Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.

38. The penalty specified in paragraph 33, above, represents civil penalties assessed by the EPA and Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

VIII. OTHER TERMS AND CONDITIONS

39. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this Consent Agreement and for such other relief as may be appropriate.

40. Nothing in this Consent agreement shall be construed as a waiver by Complainant of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.

41. Each undersigned representative of the parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Consent Agreement and to execute and legally bind that party to this Consent Agreement.

42. This Consent Agreement shall be subject to a public comment period of not less than forty (40) days pursuant to section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and 40 C.F.R. § 22.45. The EPA may modify or withdraw its consent to this Consent Agreement if comments received disclose facts or considerations which indicate that the Consent Agreement is inappropriate, improper or inadequate.

43. If comments received during the public comment period do not require modification or withdrawal by the EPA from this Consent Agreement, the parties agree to submit this Consent Agreement to the Regional Judicial Officer following closure of the public comment period specified in 40 C.F.R. § 22.45 and the period for state consultation specified in 40 C.F.R. § 22.38(b), with a request that it be incorporated into a Final Order.

44. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the civil penalty owed for violations alleged in this Consent Agreement. This Consent Agreement resolves Respondent's liability for federal civil penalties under section 309(d) and (g) of the Act, 33 U.S.C. § 1319(d) and (g), for the violations alleged in this Consent Agreement. This Consent Agreement shall not in any case affect the EPA's right to pursue criminal sanctions for any violations of law whether or not alleged in this Consent Agreement.

45. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this Consent Agreement.

IN THE MATTER OF: Public Service Company of Colorado, Docket No. CWA-08-2013-0011

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8
Complainant

Date: 4-18-2013

for Eddie R. Seria
Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

PUBLIC SERVICE COMPANY OF
COLORADO
Respondent.

Date: 3/25/2013

David L. Eves
Name: DAVID L EVES
Title: PRESIDENT & CEO



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

October 2, 2012

Ref: 8ENF-L

CONFIDENTIAL SETTLEMENT COMMUNICATION

Lynn M. Kornfeld
Faegre Baker Daniels LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver, Colorado 80203-4532

*Internally Response
but "Confidential
Settlement
Communication"*

Re: Georgetown Forebay Dam Activity

Dear Lynn:

(b) (5)

Sincerely,

Wendy I. Silver

Wendy I. Silver
Senior Attorney



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 WYNKOOP STREET
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

October 2, 2012

Ref: 8ENF-L

CONFIDENTIAL SETTLEMENT COMMUNICATION

Lynn M. Kornfeld
Faegre Baker Daniels LLP
3200 Wells Fargo Center
1700 Lincoln Street
Denver, Colorado 80203-4532

Re: Georgetown Forebay Dam Activity

Dear Lynn:

(b) (5)

Sincerely,

A handwritten signature in blue ink that reads "Wendy I. Silver".

Wendy I. Silver
Senior Attorney



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Kristen Shults Carney
Assistant General Counsel

1800 Larimer, Suite 1100

Potentially Responsive
to "Confidential"

July 20, 2012

Confidential Settlement Comm

United States Environmental Protection Agency
Region 8 (9ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Wendy Silver

**Re: June 28, 2012 Letter Alleging Clean Water Act Violations in Clear Creek
County, Colorado**


Dear Ms. Silver:

(b) (5)



Thank you.

Sincerely,



Kristen Shults Carney



Kristen Shults Carney
Assistant General Counsel

1800 Larimer, Suite 1100
Denver, CO 80202-1414
Phone: 303.294.2753
Fax: 303.294.2988

July 20, 2012

Confidential Settlement Communication

United States Environmental Protection Agency
Region 8 (9ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Wendy Silver

**Re: June 28, 2012 Letter Alleging Clean Water Act Violations in Clear Creek
County, Colorado**

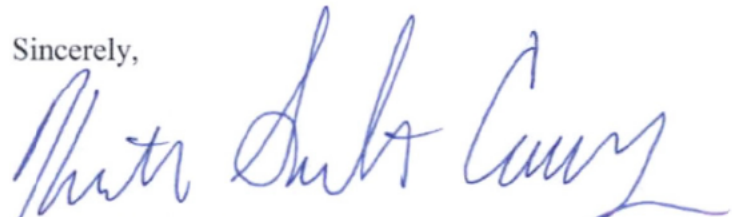
Dear Ms. Silver:

(b) (5)

A large black rectangular redaction box covering the majority of the letter's body text.

Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kristen Shults Carney'.

Kristen Shults Carney



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

JUN 28 2012

Ref: 8ENF-L

CONFIDENTIAL SETTLEMENT COMMUNICATION

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kristen Carney
Assistant General Counsel
Xcel Energy
1800 Larimer Street, Suite 1100
Denver, CO 80202

Re: Clean Water Act Violations in Clear Creek
County, Colorado

Dear Ms. Carney:

(b) (5)



Printed on Recycled Paper

(b) (5)



(b) (5)



Please contact me at 303-312-6637 if you wish to discuss this matter.

Sincerely,

Wendy I. Silver

Wendy I. Silver
Senior Attorney
Office of Enforcement, Compliance and
Environmental Justice

7009 3410 0000 2594 8855

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
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For delivery information visit our website at www.usps.com	
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Certified Fee	<i>mailed</i>
Return Receipt Fee (Endorsement Required)	<i>6/28/12</i>
Restricted Delivery Fee (Endorsement Required)	
KRISTEN CARNEY ASSISTANT GENERAL COUNSEL XCEL ENERGY 1800 LARIMER STREET, SUITE 1100 DENVER, CO 80202	

PS Form 3800, August 2006 See Reverse for Instructions

pm Postmark Here

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

Project No. 2187-041--Colorado
Georgetown Project
Public Service Company of Colorado

Mr. Randy Rhodes
Public Service Company of Colorado
4653 Table Mountain Drive
Denver, CO 80403

April 9, 2012

Subject: September 2011 turbidity incident

Dear Mr. Rhodes:

This is in response to your November 2, 2011 and February 24, 2012 letters regarding an elevated turbidity incident at the Georgetown Project No. 2187. The incident occurred during the drawdown and refill of the Georgetown Forebay on September 21-23, 2011. We are also in receipt of: December 1, 2011 and March 8, 2012 letters from the Town of Georgetown regarding the incident; a January 24, 2012 letter from the U.S. Environmental Protection Agency (EPA) requesting additional information regarding the incident; a January 24, 2012 comment letter and water quality monitoring results from the Upper Clear Creek Watershed Association; and a November 18, 2011 incident report and water quality testing results from the Colorado Department of Public Health and Environment.

By letter dated October 19, 2011, we inquired about the elevated turbidity incident at the project. We also requested additional information surrounding the incident to help us review your compliance with the requirements of your project license. In addition, we verbally requested a copy of your response to EPA's January 24, 2012 inquiry, which was contained in your February 24, 2012 letter.

Requirements

Ordering paragraph (E) of your project license¹ requires compliance with the standard license articles set forth in Form L-16. Standard license Article 14 requires that you take reasonable measures to prevent, soil erosion on lands adjacent to streams or

¹ See 74 FERC ¶ 62,097. Order Issuing Subsequent License (Minor Project) (issued February 28, 1996).

other waters, stream sedimentation, and any form of water or air pollution. Article 402 of your project license also requires that at least 90 days before the start of dredging activities, you are to file for Federal Energy Regulatory Commission (Commission) approval, a plan to conduct tests for, minimize inputs of, and safely dispose of contaminated sediments and spoils.

Incident Summary

You explained that you are preparing to perform various maintenance activities during fall 2012, including the replacement of intake gates for the low-level outlet and penstock and installation of trash racks at the two Georgetown Forebay inlets. In order to complete project planning and engineering, you stated that an inspection of the existing facilities was necessary. Accordingly, on September 21, 2011, at approximately 9:00 a.m., you opened the low-level outlet to drain the Georgetown Forebay. You stated that complete drawdown of the forebay occurred on the morning of September 22, 2011, and that the low-level outlet was partially closed at approximately 10:00 a.m. that day, allowing the forebay to begin refilling. You added that additional flow was released from the upstream Clear Lake to speed refilling of the forebay, which was completely refilled that evening. Finally, you stated that the low-level outlet was completely closed on the morning of September 23, 2011, when the forebay was full and water began flowing through the spillway. During this time, streamflow in South Clear Creek was approximately 35-40 cubic feet per second (cfs).

Regarding the reported turbid water release, you stated that you made observations of Clear Creek and the downstream Georgetown Reservoir on September 22, 2011. Staff observed new sediment deposited immediately downstream of the forebay dam and minor sediment deposits in Clear Creek just above the inlet to the downstream Georgetown Reservoir. You stated that you did not take any water quality measurements during the September 21-22 drawdown; however, you did not note any significant adverse effects to aquatic organisms, other than two dead fish that were reported near the downstream intake to the Town of Georgetown's water supply. Finally, you stated that a September 30, 2011 inspection in the vicinity of the project powerhouse did not reveal any significant sediment deposits and it is your belief that any remaining sediments would be mitigated during the normal high spring flows.

Prior to commencing drawdown of the forebay, you stated that you informed the Town of Georgetown Water/Wastewater Superintendent, District 7 Water Commissioner, and the State Dam Inspector of your plans to draw down the project forebay. You also stated that you communicated your plans to draw down the project forebay to a

Commission staff member during an operation of a separate project around August 31, 2011. You added that the staff member did not note any concerns with your proposal at the time of verbal notification.

Following the observation of elevated turbidity in South Clear Creek, the Colorado Department of Public Health and Environment conducted an investigation into the incident and an inspection of the project on September 22, 2011. You noted that the Town of Georgetown contacted you on the evening of September 22, 2011, to advise you of its diminishing water reserves, resulting from the inoperability of its water treatment facility following the turbid water release. You further stated that the facility was partially back on-line that evening around 10:30 p.m. and was meeting water demand.

For the future, you are investigating alternative methods for drawing down the forebay in preparation for the scheduled work in fall 2012 and will submit a plan and schedule for review and approval, prior to conducting the upcoming work.

Conclusion

As you are aware, the Commission's Regional Office issues annual letters reminding you of your responsibilities under your project license. The most recent letter was issued on April 19, 2011. Item No. 15 of that letter under 18 CFR 12.4(b), requires that you obtain approval from the Commission's San Francisco Regional Office prior to any non-emergency drawdown of a project reservoir, canal, or forebay. Approvals for such drawdowns are not issued until documentation of coordination with the appropriate resource agencies has been received by the Commission. Review of our files indicates that no formal proposal for dewatering the forebay was submitted to the Commission prior to the September 21-22, 2011 drawdown. Further, informal verbal notification to Commission staff during a separate operational inspection at a separate project does not constitute formal notification to the Commission's San Francisco Regional Office, nor does the fact that Commission staff neglected to raise any concerns at the time of verbal notification constitute formal acceptance of the drawdown.

While we recognize that you informed the Town of Georgetown, District 7 Water Commissioner, and the State Dam Inspector of your intentions to draw down the project forebay, there is no indication that you informed the natural resource agencies of your intentions, including the Colorado Department of Public Health and the Environment, Colorado Department of Wildlife, and the U.S. Fish and Wildlife Service. Such coordination should have been carried out with these agencies, including the preparation of measures to monitor and mitigate any potential negative impacts to aquatic resources. Such coordination would have ensured that aquatic resources below the forebay were protected and proper authorizations were obtained.

Review of the available information filed by the Colorado Department of Public Health and Environment and the Upper Clear Creek Watershed Association indicates that water quality was severely impaired during the release of sediments that had accumulated in the forebay. In particular, water quality samples taken in South Clear Creek on September 22, 2011, indicate high levels of numerous metals, including aluminum, cadmium, copper, iron, lead, manganese, nickel, uranium and zinc that greatly exceed historical measurements. Turbidity levels taken at the Town of Georgetown's water plant also exceeded measureable levels, while total suspended solids greatly exceeded historical levels. Your filings indicate that you anticipated some level of turbidity would be released from the project forebay, however, there is no indication that you took measures to prevent and/or minimize the release of sediments into South Clear Creek.

Based on the available information, we conclude that your failure to properly inform the Commission and the natural resource agencies of your proposed drawdown, including the failure to develop and implement monitoring and mitigation measures, constitutes a violation of Article 14 of your project license. The adverse impacts to water quality that resulted from the draining of the project forebay also constitute a violation of Article 14. Your report, however, indicates that water quality returned to pre-incident levels soon after the incident. You also stated, while it is difficult to measure the exact amount of sediment deposited downstream, you believe the sediment deposited downstream to be minor in nature and has been, or would soon be, mitigated by the high flows during the upcoming spring. Therefore, due to the level of sedimentation and the temporary nature of the incident, no enforcement action will be taken at this time. Nonetheless, the incident will be made part of the compliance history for the project and taken into consideration during our review of similar future events. We are also requiring additional action during any similar planned activities in the future to prevent adverse effects to aquatic resources.

We note that during project relicensing, it was anticipated that you would maintain the forebay water surface elevation to minimize disturbances of sediment and to avoid any potential environmental impacts.² While license Article 402 does not specifically require a mitigation plan prior to forebay drawdown, its intent is to prevent the re-suspension of tainted sediments in South Clear Creek. Because it has been demonstrated that drawdown of the project forebay has the potential to severely impair water quality by mobilizing tainted sediments, we ask that any such future proposal to draw down the forebay be submitted to the Commission for approval, including a plan to prevent any future sediment releases. The plan should include those elements prescribed in Article

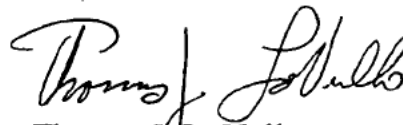
² See Notice of Availability of Final Environmental Assessment-Project No. 2187-002 (issued August 24, 1995).

402, and should include documentation of consultation with the Town of Georgetown and the Colorado Department of Public Health and Environment, in addition to the entities listed in the article. The plan should be submitted to the Commission Secretary for approval, at least 90 days before the initiation of drawdown. A courtesy copy of the plan should also be filed with the San Francisco Regional Office and may also be used to satisfy your 60-day notification requirement to the Regional Office under 18 CFR 12.4(b). No drawdown activities should begin until the Commission approves the drawdown.

As a side note, we are also aware of your recent communications with the Town of Georgetown regarding possible compensation for additional employee labor during the Town's water outage and possibly for enhanced filtration equipment. If the Town of Georgetown believes it has suffered damages as a result of the project's operations, it may seek remedies in an appropriate court.

Thank you for your cooperation. If you have any questions about this matter, please contact Mr. John Aedo at (415) 369-3335.

Sincerely,



Thomas J. LoVullo
Chief, Aquatic Resources Branch
Division of Hydropower Administration
and Compliance

c: Mr. Tom Hale
Town of Georgetown
P.O. Box 426
Georgetown, CO 80444-0426

U.S. Fish and Wildlife Service
Ecological Services
Colorado Field Office
P. O. Box 25486, DFC (MS 65412)
Denver, CO 80225-0486

Colorado Division of Wildlife
6060 Broadway
Denver, CO 80216

Environmental Protection Agency
Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129

Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246

PJ-12

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

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Environmental Protection Agency
Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-W

MAR 27 2012

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED
7009 3410 0000 2591 9886

Kristen Carney
Assistant General Counsel
Xcel Energy
1800 Larimer Street, Suite 1100
Denver, CO 80202

Re: Second Request for Information Pursuant to
Section 308 of the Clean Water Act, 33 U.S.C.
§ 1318

Dear Ms. Carney:

The United States Environmental Protection Agency (EPA) is continuing its investigation into the discharge of pollutants into South Clear Creek and its adjacent wetlands from property owned, controlled, or operated by Xcel Energy Inc. ("Xcel") and Public Service Company of Colorado ("PSCo") in Section 20, Township 4 South, Range 74 West, Clear Creek County, Colorado (the "Site"). The EPA has reviewed your response to our January 24, 2012, request for information and has found some of the responses to be incomplete while others have raised additional questions. In order to fill these information gaps, and pursuant to the authority of Section 308 of the Act, 33 U.S.C. § 1318, you are requested to respond to the enclosed Second Request for Information. Please read the instructions and definitions in the enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. Your response to the Information Request is due no later than **thirty (30) calendar days** after your receipt of this letter.

The response to this request must be accompanied by a certification that is signed and dated by an individual authorized to respond to this Information Request. The certification must state that the response is complete and contains all information and documentation available to you that is responsive to this request. A sample Statement of Certification is enclosed with this letter.



Printed on Recycled Paper

Please send the requested information to:

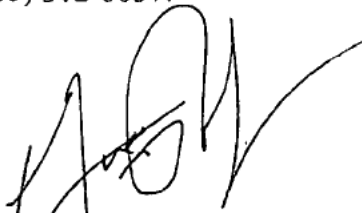
U.S. Environmental Protection Agency
Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Wendy Silver

Although the information requested must be submitted to the EPA, you are entitled to assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203 (see 41 Federal Register 36902 (September 1, 1976)). If the EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in 40 C.F.R. Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, the EPA may make the information available to the public without further notice to you.

A Small Business Regulatory Enforcement and Fairness Act ("SBREFA") information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. SBEFRA does not eliminate your responsibility to comply with the Act and respond to this information request, nor does it create any new rights or defenses under law. This Information Request is exempt from the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

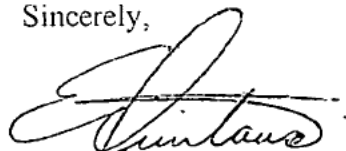
Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to the Request **within thirty (30) calendar days** of receipt of this letter may result in enforcement action by the EPA pursuant to Section 309 of the Act, 33 U.S.C. § 1319, which permits the EPA to seek civil penalties of up to \$37,500 per day of violation for failing to provide information required under Section 308 of the Act. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under Section 309(c) of the Act, 33 U.S.C. § 1319(c), and under 18 U.S.C. § 1001.

If you have any technical questions regarding this request, please contact Wendy Silver, Senior Attorney, at (303) 312-6637.



Arturo Palomares, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Sincerely,



Eduardo Quintana, Acting Supervisory Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



SECOND REQUEST FOR INFORMATION

INSTRUCTIONS

1. Provide a separate response to each and every question (and subpart of a question) or request for documents set forth in this Information Request.
2. Precede each response to a question with the number of the question to which it corresponds.
3. Any documents relied upon or used by you to answer any of the questions in this Information Request must be copied and submitted to the EPA with your response. You must submit copies of all documents available to you even if you believe they may have been submitted to the EPA previously by you or by other parties. All documents must contain a notation indicating the question to which they are responsive.
4. If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain in detail both the qualification and the reason(s) for each such qualification.
5. If information or documents not known or not available to you as of the date of submission of your response to this Information Request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide a corrected response.
6. If you assert the attorney-client privilege or any other privilege recognized by Federal law in lieu of providing a document, you must provide the EPA with the following: (1) identify the document; (2) identify the author of the document; (3) identify each addressee and recipient; and (4) state the privilege asserted and explain the justification for asserting such privilege.



DEFINITIONS

The following definitions shall apply to this Information Request:

1. The term "activity" or "activities" shall encompass all mechanical dredging (methods including the use of draglines, bulldozers or other equipment) and hydraulic dredging (sluicing of accumulated bottom sediments through a dam), and placement of dredged or fill material, within the Georgetown Forebay Dam and Reservoir and South Clear Creek at the Site, and within Clear Creek and the Georgetown Reservoir downstream of the Site.
2. The term "you" shall mean Xcel and PSCo and their board members, officers, directors, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
3. The term "person" shall have the same definition as in Section 502(5) of the Act, 33 U.S.C. § 1362: an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.
4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position, or business.
5. The term "Site" means the property currently or formerly owned and/or controlled by you, and operated under FERC Project No.2187, in Section 20, Township 4 South, Range 74 West, Clear Creek County, Colorado, including the Georgetown Forebay Dam and Reservoir and South Clear Creek.
6. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any computer disk, any information stored on a computer hard drive or memory tape or other type of memory generally associated with computers and data processing; and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
7. The term "waters of the United States" shall have the same definition as in 40 C.F.R. § 112.2 and 33 C.F.R. Part 328 (including wetlands).



8. The term "wetlands" shall have the same definition as in 33 C.F.R. § 328.3(b).
9. The terms "dredged material," "discharge of dredged material," "fill material" and "discharge of fill material" shall have the same definitions as in 33 C.F.R. Part 323.
10. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
11. The term "any," as in "any documents" for example, shall mean "any and all."
12. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Act, 33 U.S.C. § 1251 et seq., or in the regulations found at 40 C.F.R. § 122.2 and 33 C.F.R. Parts 323 and 328, in which case the statutory or regulatory definitions shall apply.



QUESTIONS

1. Describe and provide a history, including specific dates (other than September 21 – 22, 2011), of all occasions when the Georgetown Forebay Reservoir was drawn down by opening the low-level outlet gate(s) or valve(s). In your response, please address each of the following:
 - a. Identify each person who conducted, authorized, or was otherwise involved in the drawdown and describe the specific activities undertaken by each person and specify the time and date of each activity.
 - b. Identify each person not named in response to part 1.a., above, who may have witnessed such activity.
 - c. Describe the purpose for undertaking the activity and indicate if the purpose was achieved.
2. Describe and provide a history, including specific dates (other than September 21 – 22, 2011), of all occasions when accumulated bottom sediments in the Georgetown Forebay Reservoir were mechanically or hydraulically dredged. In your response, please address each of the following:
 - a. Identify each person who conducted, authorized, or was otherwise involved in the dredging and describe the specific activities undertaken by each person and specify the time and date of each activity.
 - b. Identify each person not named in response to part 2.a., above, who may have witnessed such activity.
 - c. Describe the purpose for undertaking the activity and indicate if the purpose was achieved.
3. Please identify all Xcel and PSCo employees who observed the release from the low-level outlet gate(s) or valve(s) from the Georgetown Forebay Reservoir on September 21 - 22, 2011. Please describe in detail each employee's observations and state when and where the each employee made his or her observation (e.g., at the Forebay Dam, along South Clear Creek, at Georgetown Lake, etc.).
4. Please provide the bases for your conclusion that only a de minimis amount of sediment was discharged from the Georgetown Forebay Reservoir from September 21 – 22, 2011, since you have indicated that no calculation or other quantification was made. Please further explain how the amount of sediment experienced at the Town of Georgetown's intake on South Clear Creek was factored into your determination that the amount of sediment discharged was de minimis.
5. Provide any other information relative to the site that you believe may be useful in the EPA's investigation.



STATEMENT OF CERTIFICATION

I certify under penalty of law that I am the person authorized on behalf of the person for whom I am signing below to respond to the United States Environmental Protection Agency's Information Request concerning the Site as defined therein, that I have personally examined and am familiar with the information (including all attachments) submitted in this response to the Information Request and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

Xcel Energy Inc.

Signature

Date

Printed Name

Official Title

Address



Public Service Company of Colorado

Signature

Date

Printed Name

Official Title

Address

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers
www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture
www.epa.gov/agriculture/

Automotive Recycling
www.ecarcenter.org

Automotive Service and Repair
www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing
www.chemalliance.org

Construction
www.cicacenter.org or 1-734-995-4911

Education
www.campusere.org

Food Processing
www.fpeac.org

Healthcare
www.hercenter.org

Local Government
www.lgean.org

Metal Finishing
www.nmfrc.org

Paints and Coatings
www.paintcenter.org

Printed Wiring Board Manufacturing
www.pwbrc.org

Printing
www.pneac.org

Ports
www.portcompliance.org

U.S. Border Compliance and
Import/Export Issues
www.bordercenter.org

Hotlines, Helplines and
Clearinghouses
www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline
info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC)
Info-line
www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community
Right-To-Know Act
www.epa.gov/superfund/resources
infocenter@epa.gov or 1-800-424-9346

EPA Imported Vehicles and Engines
Public Helpline
www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center
www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline -
to report oil and hazardous substance spill,
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information
Clearinghouse (PPIC)
www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline
[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline
www.epa.gov/ozone or 1-800-296-1995

Toxic Substances Control Act (TSCA) Hotline
tsc hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline
www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators
www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)
www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center
www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal
www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy
www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy
www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

The Town of Georgetown

P.O. Box 420
Georgetown, Colorado
(303) 569-2555

scan this folder

March 8, 2012

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.7
888 First Street, N.E.
Washington, D.C. 20426

Re: Public Service Company September 2
Colorado, Georgetown Project

Dear Secretary Bose:

The Town of Georgetown received a copy of the February 24, 2012 letter to you from Public Service Company (PSCo) regarding the incident in September 2011 at the Georgetown Forebay. The purpose of this letter is to express concern regarding PSCo's characterization of its discussions with the Town and again request FERC's assistance in taking whatever appropriate action is necessary to address the impacts of the incident and ensure precautionary measures are taken to prevent further damage from future intentional or accidental release.

The Town has expressed a number of concerns regarding this incident; repayment of overtime costs incurred by the Town is only one issue. As outlined in my December 1, 2011 letter to you, the Town is also concerned about the potential toxicity of the mud released by PSCo; the impact on the Town's decreed storage rights in Georgetown Lake because of the debris deposited in the lake when PSCo released the dredged material; and what measures will be taken in the future by PSCo to prevent a similar release. The Town's drinking water system is not designed to handle high sediment and silt loads, so adequate preventative measures by PSCo to prevent future damage is imperative.

And while it is true that the Town and Xcel have been engaged in ongoing discussions regarding the incident and the Town's concerns, the Town's concerns have not yet been adequately addressed. Moreover, while PSCo offered to pay the overtime costs incurred by the Town as a result of its actions, PSCo demanded the Town sign a settlement and release and further demanded the Town sign a letter to FERC advising its concerns have been adequately addressed.

Because the Town's concerns have not been addressed, the Town advised PSCo it wished to await the result of FERC's and the EPA's inquiries before signing any settlement and release agreement or joint communication to FERC. In response, PSCo withdrew its offer to pay the overtime costs.

The Town of Georgetown

P.O. Box 426
Georgetown, Colorado 80444-0426
(303) 569-2555

March 8, 2012

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.7
888 First Street, N.E.
Washington, D.C. 20426

Re: Public Service Company September 2011 Release, Project No. 2187-041-
Colorado, Georgetown Project

Dear Secretary Bose:

The Town of Georgetown received a copy of the February 24, 2012 letter to you from Public Service Company (PSCo) regarding the incident in September 2011 at the Georgetown Forebay. The purpose of this letter is to express concern regarding PSCo's characterization of its discussions with the Town and again request FERC's assistance in taking whatever appropriate action is necessary to address the impacts of the incident and ensure precautionary measures are taken to prevent further damage from future intentional or accidental release.

The Town has expressed a number of concerns regarding this incident; repayment of overtime costs incurred by the Town is only one issue. As outlined in my December 1, 2011 letter to you, the Town is also concerned about the potential toxicity of the mud released by PSCo; the impact on the Town's decreed storage rights in Georgetown Lake because of the debris deposited in the lake when PSCo released the dredged material; and what measures will be taken in the future by PSCo to prevent a similar release. The Town's drinking water system is not designed to handle high sediment and silt loads, so adequate preventative measures by PSCo to prevent future damage is imperative.

And while it is true that the Town and Xcel have been engaged in ongoing discussions regarding the incident and the Town's concerns, the Town's concerns have not yet been adequately addressed. Moreover, while PSCo offered to pay the overtime costs incurred by the Town as a result of its actions, PSCo demanded the Town sign a settlement and release and further demanded the Town sign a letter to FERC advising its concerns have been adequately addressed.

Because the Town's concerns have not been addressed, the Town advised PSCo it wished to await the result of FERC's and the EPA's inquiries before signing any settlement and release agreement or joint communication to FERC. In response, PSCo withdrew its offer to pay the overtime costs.

The Town is without the technical knowledge or expertise to adequately assess the full impact of PSCO's dredging activities and the resulting release, which is why the Town looks to FERC and the EPA to fully investigate this incident and take whatever action is deemed appropriate.

Sincerely,



Thomas H. Hale
Town Administrator

cc: Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246
Project NO. 2187-041

Colorado Division of Wildlife
Ecological Services
Colorado Field Office
P.O. Box 25486, DFC (MS 65412)
Denver, CO 80225-0486

Bureau of Land Management
Royal Gorge Field Office
3028 East Main Street
Canon City, CO 81212

Preston E. Gibson, III
Area Manager, Community and Local Government Affairs
Xcel Energy
5460 W. 60th Avenue
Arvada, CO 80003

United States Environmental Protection Agency
Region 8 (9ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Wendy Silver

Benjamin Moline, P.E.
Upper Clear Creek Watershed Association
P.O. Box 3058
Idaho Springs, CO 80452

Robert Finucane
Federal Energy Regulatory Commission
100 First Street, Suite 2300
San Francisco, CA 94105-3084

AFTER FIVE DAYS RETURN TO:

The Town of Georgetown

P.O. Box 426

Georgetown, Colorado 80444



United States Environmental Protection Agency
Region 8 (9ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Wendy Silver



8020231129 C062





1800 Larimer, Suite 1100
Denver, CO 80202-1414

COPY

February 24, 2012

VIA FEDERAL EXPRESS

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.7
888 First Street, N.E.
Washington, D.C. 20426

**Re: Public Service Company September 2011 Dam Maintenance Activities
Project No. 2187-041 – Colorado, Georgetown Project**

Dear Secretary Bose,

This letter is to provide you with an update regarding inquiries related to the dam maintenance inspection activities that were performed at Public Service Company of Colorado, ("PSCo's" or "Company's") Georgetown Hydroelectric Plant (Georgetown Forebay) on September 21-22, 2011.

Background

As previously reported, this inspection was performed as a necessary dam maintenance activity and was consistent with our FERC license. The work required lowering the water level in the Forebay reservoir, by opening a low-level outlet valve so that an inspection could be made necessary to support a future maintenance project. For safety reasons, we determined that the best time to operate the valve for the inspection was in the fall during low flow conditions. The operation of this low-level outlet valve was consistent with common practices in the industry and of low-head dam owners in general.

No dredging activity was performed as part of this inspection activity. Similar conclusions have been made by representatives of the Colorado Department of Public Health and the Environment ("CDPHE") in its initial report on the activities.¹

¹ A November 8, 2011 CDPHE report states that PSCo did not perform dredging activity. However, the CDPHE report indicated the State believes that Ordering Paragraph E of PSCo's FERC license requires PSCo to evaluate the need to conduct dredging and file for FERC approval of its actions, even if no dredging activity is performed. The Company does not agree with that interpretation of its FERC license. If mechanical dredging is performed the Company must submit a plan for FERC approval. However, the Company's FERC license does not require it to seek prior approval to operate its low level outlet valve as part of a dam maintenance inspection activity.

Prior to performing the inspection, PSCo provided the downstream Town of Georgetown (the "Town" or "Georgetown") and certain state and federal agencies with notice of the activities, including the intent to open the low-level outlet valve. In particular, the Company provided notice to Georgetown's Water Treatment Plant Superintendent one week prior to opening the valve, and again the morning of September 21st when we opened the valve. PSCo also gave informal advanced notice to FERC, and the District 7 Water Commissioner prior to performing the inspection work. No one expressed any concern about the intended inspection activities.

During performance of the dam maintenance inspection activities, water was released from the low-level outlet valve at the Georgetown Forebay. At approximately 8:00 a.m. on September 22, the water delivered to South Clear Creek was clear. However, by 9:30 a.m. PSCo agents noticed increased turbidity and decided as a result to begin closing the valve. The low-level outlet valve was partially closed (down to 6-inches, on a 30-inch diameter pipe) at approximately 10 to 10:30 a.m. on September 22, which allowed the Forebay to refill and eventually allow flow to bypass over the dam spillway.

On the evening of September 22, Georgetown raised concerns about its filtration system at the water treatment plant and that it might face a water supply shortage, in part because the Town had less water in its water supply tank than typical. PSCo responded quickly to come to the Town's aid, when Georgetown first identified these possible concerns. In particular, we met with the Town Administrator and agreed to transport by truck, potable water to the Town to be pumped into the water tank. This was offered as a good faith gesture to support the community. It turned out that this was not needed because the system was back on line before the Town ran too low on water supply. Although there was no detrimental impact to the Town's water supply, we were prepared and had offered to assist the Town had its water supply been substantively diminished.

No long-term environmental impacts from the dam maintenance inspection activity.

Since the dam maintenance inspection event took place, the Town has raised additional concerns about the potential impact that the sediments might have had on water quality or water supply. The Company is sensitive to these concerns, but as explained further below, has determined that there was no detrimental environmental impact related to its September 2011 inspection activities. The amount of sediment that may have moved downstream during the inspection of the low-level outlet valve was not anticipated, but was *de minimis* and resulted in no long term impacts to water quality or water supply.²

First, water quality data collected by the Town and analyzed just a few days after the inspection on Monday, September 26, 2011 demonstrate that the water quality near the Town's water treatment intake was normal within a couple of days after the inspection. See Attachment A, Water Quality Sampling Data. PSCo only recently obtained this data from the Town of Georgetown and Colorado Department of Public Health and Environment (CDPHE). CDPHE reportedly also

² The small amount of sediments that moved downstream during the inspection would naturally flow downstream without our facility in place, and do continue to move downstream over time regardless of whether inspection activities are being performed. Any sediments released during the September 2011 inspection, would not have changed the baseline conditions of the stream or lakebed at Georgetown Reservoir nor impact water supply.

shared with Georgetown its conclusion that based on this water quality data, any water quality impacts were transient and not long term.

Next, the Company's own agents and employees witnessed that the clarity of water was normal shortly after the inspection was performed. There was also no evidence of any impacted fish, other than possibly two fish that were found in the Water Treatment Facility at or around the time of the event. However, due to the where the fish were found, no conclusion can be made as to the cause of their mortality. Our own surveys of waters at Georgetown Lake Reservoir and at Clear Creek immediately upstream of the Reservoir on September 22, 2011 concluded that there was no evidence of any in-stream impacts to fish. Furthermore, a CDPHE inspection of the area on September 22, 2011 did not reveal any evidence of fish kill. See CDPHE Field Investigation Checklist (included in the attached response to EPA's 308 Information Request, see **Attachment B** below). An inspection by the Army Corps of Engineers on September 30, 2011 found that the water remained clear in the stream after the dam maintenance inspection activities took place. See October 25, 2011 Army Corps of Engineers Report (included in the attached response to EPA's 308 Information Request, see **Attachment B** below).

Finally, although it is impossible to accurately determine how much sediment moved downstream during the dam maintenance inspection, the relative size of the Forebay compared to the downstream Georgetown Lake Reservoir severely limits the possible effects on the Town's water storage capacity in Georgetown Lake Reservoir, as claimed. The Forebay is decreed to store 7.85 acre-feet of water and the volume of sediment contained therein is considerably less than this amount. The Georgetown Lake Reservoir is decreed to store 750 acre-feet of water. Although the Forebay was not fully emptied during the dam maintenance inspection activities, even if it was assumed the entire capacity of the Forebay traveled downstream to Georgetown Lake Reservoir, this would at most represent 1% of the Georgetown Lake Reservoir storage capacity. The actual percent storage volume displaced is much smaller than the 1% overestimate, and is probably immeasurable.

Discussions with the Town of Georgetown

PSCo and the Town have been engaged in ongoing discussions regarding the concerns raised by the Town in its September 28, 2011 and December 1, 2011 letters to FERC. While the inspection activity was necessary to perform for dam maintenance purposes and resulted in no ongoing environmental impact, PSCo is sensitive to the concerns raised by the Town regarding these activities and future work planned at the Forebay. We understand that Georgetown would like for the Company to help offset the overtime labor costs it has indicated it incurred during the event to get its system back on line. We also understand that the Town would like to discuss with us ways in which we can improve communications about future dam maintenance activities going forward. As a result, and as a goodwill gesture, the Company offered to enter into a cooperative agreement with the Town and to pay the overtime labor costs that the Town incurred following the Company's September 2011 inspection activities. The Company also offered to enter into good faith discussions with the Town regarding how future maintenance activities, will be performed and how communications between the Town and Company during the performance of those

activities could be improved.³ The Company further suggested that the Town work with the Company to provide a joint update letter to FERC. The Town, in a Board of Selectmen meeting on February 13, decided not to accept this offer. The Company continues to be willing to discuss future maintenance activities with the Town, despite the Town's rejection of the Company's offer to enter into a cooperative agreement.

Request from Upper Clear Creek Watershed Association

As you are also aware, on January 24, 2011, the Upper Clear Creek Watershed Association (UCCWA) submitted a letter to FERC regarding these inspection activities, requesting that the Company undertake a study of the watershed to determine how much sediment was released from the September 21 event and what impacts may have resulted from that event. As discussed above, it is impossible to accurately determine how much sediment was released during the September inspection activities; however, even the most conservative theoretical estimates would suggest that the sediment deposits, if any, had no more than a 1% effect on the downstream Georgetown Reservoir. In addition, as described above, water quality was normal within a couple days of the inspection. Any study conducted at this point in time would not produce useful data as the current stream conditions have already returned to background conditions.

The Company has indicated a willingness to discuss with the Town and the UCCWA how future operations might be improved, including improved communications, before any future routine maintenance or non-routine activities are performed. The Company is also willing to participate in ongoing discussions with the UCCWA about best practices that might be implemented to minimize potential water quality impacts from hydroelectric activities. As discussed further below, we have and continue to carefully assess how future maintenance activities should be performed.

Response to United States Environmental Protection Agency Information Request

As you are also aware, the United States Environmental Protection Agency ("EPA") has requested additional information about the September 21-22 inspection activities, following the United States Army Corps of Engineers determination not to pursue an enforcement action related to the event. A copy of our response to EPA is attached to this letter as **Attachment B**. The information demonstrates that a Clean Water Act 404 permit was not needed prior to performing the dam maintenance inspection activities, given that the (1) the purpose of the drawdown was to perform inspections needed for future dam maintenance; (2) the drawdown was reasonable and necessary to the inspection activities performed; (3) the drawdown did not change the character, scope or size of the Forebay; (4) the drawdown did not subject the creek to a use to which it was not previously subject; (5) the flow of South Clear Creek was not impaired or reduced as a result of the drawdown; (6) the drawdown was performed consistent with common industry practice and consistent with our FERC license; and (7) there was no long term impact to water quality or water supply as a result of the drawdown

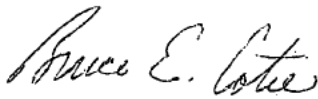
³ We are aware that Georgetown has also requested that we help provide funds to the Town to upgrade its wastewater treatment plant. We will not agree to help fund additional upgrades to the plant because that request is not related to the costs allegedly incurred by Georgetown.

Kimberly D. Bose, Secretary
February 24, 2012
Page 5

Future Dam Maintenance Activities. The Company is sensitive to concerns expressed that future dam maintenance activities could result in future sediment releases. We may need to continue to operate the low-level outlet valve as part of our future operations, and want to work with the Town and County and other stakeholders to discuss how we can work cooperatively together on such future activities. We are willing to discuss ways in which we can improve and modify our operations and improve our communications about those operations.

If you have any questions or wish to discuss further, please feel free to contact me at 303-273-4917 or Kristen Carney, in-house counsel, at 303-294-2753.

Sincerely,

A handwritten signature in cursive script that reads "Bruce E. Cotie".

Bruce Cotie
Plant Manager, Hydro-West
Public Service Company of Colorado

Kimberly D. Bose, Secretary
February 24, 2012
Page 6

cc: Thomas H. Hale (w/o enclosures)
Town Administrator
404 6th Street
Georgetown, CO 80444

United States Environmental Protection Agency (w/o enclosures)
Region 8 (9ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Wendy Silver

Benjamin Moline, P.E.
Upper Clear Creek Watershed Association
P.O. Cox 3058
Idaho Springs, Colorado 80452

Mr. Robert Finucane
Federal Energy Regulatory Commission
100 First Street
Suite 2300
San Francisco, CA 94105-3084



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

JAN 24 2012

Ref: 8ENF-W

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED
#7009-3410-0000-2591-9824

Xcel Energy Inc. and
Public Service Company of Colorado
c/o Corporation Service Company
1560 Broadway, Suite 2090
Denver, CO 80202

Re: Request for Information Pursuant to Section
308 of the Clean Water Act, 33 U.S.C. § 1318

Dear Madam or Sir:

This letter concerns the unauthorized discharge of dredged or fill material into South Clear Creek and its adjacent wetlands on property owned, controlled, or operated by Xcel Energy Inc. ("Xcel") and Public Service Company of Colorado ("PSCo") in Section 20, Township 4 South, Range 74 West, Clear Creek County, Colorado (the "Site"). Xcel and PSCo operate the Georgetown Hydroelectric Project at the Site under a license issued by the Federal Energy Regulatory Commission, Project No. 2187.

The Clean Water Act ("Act" or "CWA") 33 U.S.C. § 1251, *et seq.*, prohibits the discharge of pollutants (including dredged or fill material) into wetlands or other waters of the United States except as in compliance with Section 404 of the Act, 33 U.S.C. § 1344. On September 30, 2011, the U.S. Army Corps of Engineers ("Corps") conducted a site inspection and confirmed that your sluicing of accumulated sediments through the dam on the Georgetown Forebay Reservoir on September 21 and 22, 2011, resulted in the discharge of dredged material or fill material into South Clear Creek without a permit required under Section 404 of the Act, 33 U.S.C. § 1344. As this alleged discharge is in violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a), the United States Environmental Protection Agency ("EPA") is continuing the investigation of this matter. For your reference, a copy of the Corps' Regulatory Guidance Letter No. 05-04, "Guidance on the Discharge of Sediments From or Through a Dam and the Breaching of Dams, for Purposes of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899," applicable to the alleged discharge, has been included with this letter.



Printed on Recycled Paper

Pursuant to the authority of Section 308 of the Act, 33 U.S.C. §1318, you are requested to respond to the enclosed Information Request. Please read the instructions and definitions in the enclosure carefully before preparing your response. Answer each question as clearly and completely as possible. Your response to the Information Request is due no later than **thirty (30) calendar days** after your receipt of this letter.

The response to this request must be accompanied by a certification that is signed and dated by an individual authorized to respond to this Information Request. The certification must state that the response is complete and contains all information and documentation available to you that is responsive to this request. We have enclosed a sample Statement of Certification with this letter.

Please send the requested information to:

U.S. Environmental Protection Agency
Region 8 (8ENF-L)
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Wendy Silver

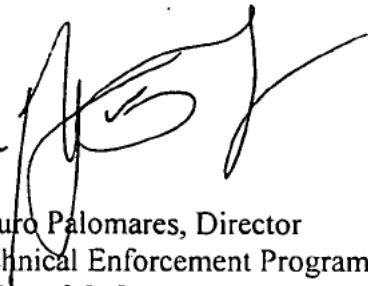
Although the information requested must be submitted to EPA, you are entitled to assert a business confidentiality claim pursuant to 40 C.F.R. § 2.203 (see 41 Federal Register 36902 (September 1, 1976)). If EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in 40 C.F.R. Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, EPA may make the information available to the public without further notice to you.

A Small Business Regulatory Enforcement and Fairness Act ("SBREFA") information sheet, U.S. EPA Small Business Resources, containing information on compliance assistance resources and tools available to small businesses, is enclosed with this letter. SBEFRA does not eliminate your responsibility to comply with the Act and respond to this information request, nor does it create any new rights or defenses under law. This Information Request is exempt from the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501 et seq.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to the Request **within thirty (30) calendar days** of receipt of this letter may result in enforcement action by EPA pursuant to Section 309 of the Act, 33 U.S.C. § 1319, which permits EPA to seek civil penalties of up to \$37,500 per day of violation for failing to provide information required under Section 308 of the Act. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under Section 309(c) of the Act, 33 U.S.C. § 1319(c), and under 18 U.S.C. § 1001.



If you have any technical questions regarding this request, please contact Kenneth Champagne at (303) 312-6608. Please direct questions of a legal nature to Wendy Silver, Senior Attorney, at (303) 312-6637.



Arturo Palomares, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Sincerely,



Matthew Cohn, Director
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Information Request
Statement of Certification
SBREFA Information Sheet
Corps RGL 05-04

cc: Timothy Carey, U.S. Army Corps of Engineers, w/enclosures
David LaGrone, U.S. Army Corps of Engineers, w/enclosures
Scott Klarich, Colorado Department of Health and Environment, w/enclosures
Kimberly D. Bose, Federal Energy Regulatory Commission, w/enclosures
John Aedo, Federal Energy Regulatory Commission, w/enclosures



INFORMATION REQUEST

INSTRUCTIONS

1. Provide a separate response to each and every question (and subpart of a question) or request for documents set forth in this Information Request.
2. Precede each response to a question with the number of the question to which it corresponds.
3. Any documents relied upon or used by you to answer any of the questions in this Information Request must be copied and submitted to EPA with your response. You must submit copies of all documents available to you even if you believe they may have been submitted to EPA previously by you or by other parties. All documents must contain a notation indicating the question to which they are responsive.
4. If any question cannot be answered in full, answer to the extent possible. If your responses are qualified in any manner, please explain in detail both the qualification and the reason(s) for each such qualification.
5. If information or documents not known or not available to you as of the date of submission of your response to this Information Request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide a corrected response.
6. If you assert the attorney-client privilege or any other privilege recognized by Federal law in lieu of providing a document, you must provide EPA with the following: (1) identify the document; (2) identify the author of the document; (3) identify each addressee and recipient; and (4) state the privilege asserted and explain the justification for asserting such privilege.



DEFINITIONS

The following definitions shall apply to this Information Request:

1. The term "activity" or "activities" shall encompass all mechanical dredging (methods including the use of draglines, bulldozers or other equipment) and hydraulic dredging (sluicing of accumulated bottom sediments through a dam), and placement of dredged or fill material, within the Georgetown Forebay Dam and Reservoir and South Clear Creek at the Site, and within Clear Creek and the Georgetown Reservoir downstream of the Site.
2. The term "you" shall mean Xcel and PSCo and their board members, officers, directors, managers, employees, contractors, trustees, partners, successors, assigns, and agents.
3. The term "person" shall have the same definition as in Section 502(5) of the Act, 33 U.S.C. § 1362: an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body.
4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position, or business.
5. The term "Site" means the property currently or formerly owned and/or controlled by you, and operated under FERC Project No.2187, in Section 20, Township 4 South, Range 74 West, Clear Creek County, Colorado, including the Georgetown Forebay Dam and Reservoir and South Clear Creek.
6. The terms "document" and "documents" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any computer disk, any information stored on a computer hard drive or memory tape or other type of memory generally associated with computers and data processing; and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.



7. The term "waters of the United States" shall have the same definition as in 40 C.F.R. § 112.2 and 33 C.F.R. Part 328 (including wetlands).
8. The term "wetlands" shall have the same definition as in 33 C.F.R. § 328.3(b).
9. The terms "dredged material," "discharge of dredged material," "fill material" and "discharge of fill material" shall have the same definitions as in 33 C.F.R. Part 323.
10. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
11. The term "any," as in "any documents" for example, shall mean "any and all."
12. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Act, 33 U.S.C. § 1251 et seq., or in the regulations found at 40 C.F.R. § 122.2 and 33 C.F.R. Parts 323 and 328, in which case the statutory or regulatory definitions shall apply.



QUESTIONS

1. Describe the corporate structure of your company (including the names and addresses of corporate officers and directors) and any parent companies or subsidiaries, including where they are incorporated, other names under which they have ever done business, and addresses of office locations.
2. List by name, title, and address all corporate officers, contract companies and other staff responsible for construction and maintenance activities, environmental compliance, permitting activities or inspections conducted at the Site involving work on the Georgetown Forebay Dam and Reservoir and within South Clear Creek. Provide all contracts or other documents related to such work.
3. Describe and provide a history, including specific dates, of all activities at the Site involving mechanical and hydraulic dredging of the Georgetown Forebay Reservoir which resulted in the discharge of dredged or fill material into South Clear Creek and downstream waters and wetlands. In your response, please address each of the following:
 - a. Identify each person who conducted, authorized, or was otherwise involved in any dewatering, dredging, filling or other activity at the Site. Describe the specific activities undertaken by each person and specify the time and date of each activity.
 - b. Identify each person not named in response to part 3.a, above, who may have witnessed such activity.
 - c. Describe the purpose for undertaking each activity and indicate if the purpose was achieved.
 - d. List each water body, including waters and wetlands downstream of the Site, affected by any activity at the Site, and indicate the dimensions of the areas impacted by the activity (length, width, and depth in feet of the water body or wetland and volume of sediment mechanically or hydraulically dredged from the Georgetown Forebay Reservoir). Please provide any maps and drawings with specifications of the Georgetown Forebay Dam and Reservoir, including volume measurements of the accumulated sediments released on September 21-22, 2011.
 - e. Explain why mechanical dredging was not used to remove the accumulated sediment from the Georgetown Forebay Reservoir prior to draining the reservoir on September 21-22, 2011. State whether any attempt was made to stop the discharge from the Georgetown Forebay Reservoir prior to September 22, 2011, when the large amount of sediment being discharged to South Clear Creek became apparent. If no such attempt was made, please explain why.
4. Identify and describe, including specific dates, all communications within and between Xcel Energy, Inc. and Public Service Company of Colorado relating in any way to the



discharge through the Georgetown Forebay Dam on September 21–22, 2011.

5. Identify and describe, including specific dates, all communications with any federal, state, or local government agency relating in any way to the discharge of dredged or fill material through mechanical or hydraulic dredging at the Site.
6. Identify and provide copies of all permit applications and supporting documentation submitted to any federal, state, or local government agency relating in any way to work performed at the Site.
7. Identify and provide all clearance documents, permits, or other correspondence obtained from any federal, state, or local government agency authorizing or referring in any way to the discharge of dredged or fill material at the Site.
8. Explain why a federal permit was not obtained prior to discharging dredged or fill material into wetlands or other waters of the United States at the Site. Identify all persons involved in the decision not to apply for a permit and identify and provide copies of all documents pertaining to the decision not to obtain a permit.
9. Describe any measures that you took to ensure that unauthorized discharges of dredged or fill material did not occur during the performance of all activities at the Site and identify and provide any documents that relate in any way to those measures, including calculations of sediments to be released through the dam. If no measures were taken, please so state.
10. Please explain and provide evidence to support the statement in your October 3, 2011, letter to the Colorado Department of Public Health and Environment that "PSCo believes that any sediment deposition that occurred as a result of emptying the Forebay is temporary in nature, not harmful to the environment, and will be mitigated during high flows in the spring."
11. Describe your current and future plans for the Site and areas adjacent to the Site. To the extent not previously disclosed, identify and provide copies of all documents relating to such plans.
12. Furnish copies of all photographs, including aerials, which you have of any locations at the Site before, during, or after work conducted in the Georgetown Forebay Reservoir and South Clear Creek or its adjacent wetlands. Please provide a description of each photograph including the subject of the photograph, the specific location within the Site where the photograph was taken, the date that the photograph was taken and the identity of the person who took each photograph.
13. Provide any other information relative to the site that you believe may be useful in EPA's investigation.



STATEMENT OF CERTIFICATION

I certify under penalty of law that I am the person authorized on behalf of the person for whom I am signing below to respond to the United States Environmental Protection Agency's Information Request concerning the Site as defined therein, that I have personally examined and am familiar with the information (including all attachments) submitted in this response to the Information Request and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment.

Xcel Energy Inc.

Signature

Date

Printed Name

Official Title

Address



Public Service Company of Colorado

Signature

Date

Printed Name

Official Title

Address





US Army Corps
of Engineers

REGULATORY GUIDANCE LETTER

No. 05-04

Date: August 19, 2005

SUBJECT: Guidance on the Discharge of Sediments From or Through a Dam and the Breaching of Dams, for Purposes of Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899

1. Purpose and applicability

a. Purpose. The purpose of this document is to provide guidance to Corps Districts Engineers regarding which releases of sediments from or through dams require Department of the Army (DA) permits. Nothing in this guidance is intended to require a DA permit for routine high water flow dam operations that allow sediment-laden waters to flow from or through a dam; however deviations from normal dam operations resulting in the discharge of bottom sediment may require a DA permit.

b. Applicability. For purposes of Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act of 1899 (RHA), this guidance applies to the releases of water and water-carried sediment that may result in the transportation, reduction, or elimination of bottom sediment accumulations from or through dams. Dams, as used in this guidance include, but are not limited to, barriers that create impoundments of water. Depending on factors discussed below with regard to exempted maintenance activities and de minimis impacts, these releases may or may not result in a regulated discharge of dredged material. Regulated discharges may occur in association with the breaching of dams but do not include breaching that results solely from acts of nature.

2. Background

a. Sediment transportation in a stream or river is a natural process that helps to maintain the geomorphology of a stream channel. However, when a dam is constructed on a stream, it tends to interrupt the natural transportation of sediments, which build up behind the dam. This can result in sediment-starved sections of a stream downstream of a dam, leading the stream to down cut or erode away its bed and banks. Sediment accumulation behind a dam also reduces the capacity of a reservoir to store water, and can interfere with operation of the dam.

b. Sediment may be removed from a reservoir basin using many different mechanical methods, including draglines, bulldozers, or other equipment. Sediment that has been removed by such mechanical means can then be transported to a site above the Ordinary High Water Mark (OHWM) of the reservoir and stabilized. Under certain specific circumstances and when authorized by a DA permit, such sediments can be re-introduced into (i.e., discharged into) the river below the dam.

c. If a dam operator modifies or deviates from normal operation of the dam in such a manner that bottom sediment accumulated behind a dam could be removed and transported downstream through the dam, either deliberately or accidentally, that activity may require a DA permit pursuant to Section 404 and/or Section 10, as explained further below. (Note: CWA Section 404(f) exemptions from the permit requirement may apply in situations where only CWA jurisdictional waters are involved). DA permits may require special conditions minimizing the potential adverse effects on the downstream aquatic environment of releases of sediments subject to DA regulation. For example, the discharge of sediments through a dam that allows those sediments to be washed downstream may, in some circumstances, provide beneficial sediment material to sediment-starved sections of a stream below the dam. However, sediments proposed for discharge through a dam may also be of the wrong type to benefit a stream (e.g., mud or fines as opposed to gravel). Such fine sediments can seriously degrade important aquatic habitat, as when silt or mud sluiced through a dam covers up spawning areas for fish at critical times in their lifecycles, or fills in niches for invertebrates in large cobble bottom systems. Sediments proposed to be discharged through a dam may also be out of sync with the natural pre-dam sediment flow regime of that stream, which historically moved much of the sediment in the stream immediately before, during and after high flows such as spring run-off. The uncontrolled discharge of sediments may kill thousands of fish due to the impairment of their ability to process oxygen. The natural, pre-dam flow regime originally produced the stream channel geomorphology, so much of the stream biota is adapted to that historic pre-dam flow regime and sediment load and size.

d. One recent court case specifically addressed the need for a DA permit for sediment sluicing activities. The case of Greenfield Mills v. Macklin originated when employees of the Indiana Department of Natural Resources sluiced large quantities of accumulated sediments through a dam into the river below the dam without having first obtained a DA permit under CWA Section 404. Before deciding the case, the U.S. Court of Appeals for the Seventh Circuit asked the U.S. Department of Justice (DOJ) to provide the consensus views of the Federal Government (i.e., of the U.S. EPA and the Corps of Engineers) regarding whether the sluicing of sediments through the dam under consideration in that case required a DA permit. The DOJ provided an Amicus Curiae brief to the Circuit Court as requested, and the Court in large measure based its decision on the legal positions that the Federal Government presented in that brief. The Amicus brief may be found at http://www.usace.army.mil/inet/functions/cw/cecwo/reg/02-1863_005.pdf. Both the Federal Government's brief and the Court of Appeals decision clearly hold that the sluicing of sediments through the dam constituted hydraulic dredging and the discharge of dredged material from a point source (i.e., the dam), which occurred when the dam's lower gates were opened and the bottom sediments were sluiced downstream. The discharge of dredged material under those circumstances was an activity that required a DA permit pursuant to Section 404 of the CWA, unless that discharge was exempt from the Section 404 permit requirement under CWA Subsection 404(f).

e. These types of discharges of sediments may also be potentially regulated as fill material. Final revisions to the CWA Section 404 Regulatory Program definitions of "fill material" and "discharge of fill material" were issued in the final rule of May 9, 2002. That final rule defined "fill material" in both the Corps and EPA regulations as material placed in waters of the U.S. where the material has the effect of either replacing any portion of a water of the U.S. with dry land or changing the bottom elevation of any portion of a water. Based on this "effect" determination, DA permits are generally required for the discharge of sediments from dams when such activities would have the effect of raising the bottom elevation of the downstream waters to a discernible, substantial degree. For example, when accumulated sediments are discharged through a dam by opening the lower gate(s) of the dam to move substantial

quantities of sediments, that discharge could reasonably be expected to raise the bottom elevation of the downstream waters, thereby constituting the discharge of fill material into that water body.

3. Types of Discharges

a. Discharges that are not regulated. Even when using the upper or middle gates of a dam to release water, some sediment is always included in suspension in the water releases. However, the release of sediments that are incidental to normal dam operations (i.e., the release of water through the dam to provide irrigation water or drinking water, to provide water for downstream depth for navigation, to restore reservoir capacity to store spring run-off or potential flood waters from storm events, etc.) are considered de minimis discharges of dredged material. For purposes of the Corps regulatory program, these de minimis discharges of suspended bottom sediments generally do not trigger the need for a DA permit so long as they are consistent with those sediment loads entering the reservoir from the upstream waters.

b. Applicability of 404(f) Exemptions. The discharge of large quantities of sediment through a dam will rarely (if ever) qualify as exempt from CWA regulation under CWA Subsection 404(f), for the reasons explained at length in the Greenfield Mills decision. (Note: There are no statutory exemptions that apply to such large-quantity discharges of sediments for purposes of the Section 10 permit requirements in Section 10 waters.) In summary, CWA Subsection 404(f)(1) exempts from CWA regulation "...the discharge of dredged or fill material . . . for the purpose of maintenance, including emergency reconstruction of recently damaged parts, of currently serviceable structures, such as . . . dams" unless the discharge is "recaptured" under Subsection 404(f)(2) (emphasis added). Consequently, the discharge of sediments through a dam cannot be exempted from CWA regulation under Subsection 404(f)(1) unless those sediments must be released for the purpose of dam maintenance, and not for any other purpose such as maintenance of the reservoir pool. Moreover, as a general rule, the Subsection 404(f) exemptions are construed narrowly to avoid their misapplication as well as the resultant adverse environmental impacts, either site-specific or cumulative. As the Greenfield Mills decision explains, for the discharge of sediments to qualify for the Subsection 404(f) exemption for dam maintenance, such discharges of sediments through a dam would have to be both necessary to allow essential dam maintenance to occur, and would have to be proportional to the dam maintenance activities that necessitate the release of sediments. Given the fact that sediments that have accumulated behind a dam can usually be removed practicably and more precisely by mechanical means, with little or no serious adverse downstream environmental effects, it is rarely necessary to sluice substantial quantities of sediments through a dam in order to accomplish essential dam maintenance. The Subsection 404(f) exemption will rarely, if ever, be applicable to the discharge of large quantities of sediments through a dam.

c. Discharges requiring DA permits. As stated above, sediment frequently builds up behind a dam. At times, rather than remove such accumulated sediments by mechanical means, a dam operator may open the bottom gates of the dam, allowing water to flow at high velocity over the sediment and flush it downstream. This can result in significant amounts of accumulated bottom sediment from upstream of the structure being allowed to move downstream with a composition or at a time period that is inconsistent with the viability and health of the downstream system. Discharging large amounts of

sediments through a dam may not be planned, but may result when the sediment is mobilized due to

increased water releases through a dam when the reservoir pool is low. Similarly, when a dam is breached, it generally causes the sediment behind the dam to be eroded rapidly, usually in a discrete (single) event or a series of discrete events, which move the sediments downstream.

Regardless of whether the dam operators had the intent to discharge sediment through the dam and out of the water impoundment, the opening of the lower gates of the dam has the effect of allowing substantial quantities of sediment material to travel downstream, thereby constituting the discharge of dredged material (and possibly fill material, as well) from a point source, thereby requiring a DA permit.

4. Analysis and Policy

a. As a general rule, the discharge of substantial quantities of accumulated bottom sediment from or through a dam into downstream waters constitutes a discharge of dredged material (and possibly of fill material) that requires a CWA Section 404 permit. The discharge of substantial quantities of sediment through a dam will rarely, if ever, qualify as exempt under 404(f). Such activities may also require a DA Section 10 permit if they occur in "navigable waters of the United States", and no statutory exemptions apply to Section 10 for such discharges into navigable waters. This policy includes the human-induced breaching of dams when sediment has accumulated in the reservoir basin and is released downstream.

b. Activities that are not usually considered regulated discharges of dredged material and do not require DA permits include actions such as the operation of continuously sluicing structures that mimic the natural increase and decrease of sediment in a stream (i.e., the amount of sediment discharging from or through a structure is comparable to the amount of material entering the reservoir from upstream); breaching or removal of a dam that results in the movement of only de minimis amounts of material or that results solely from an act of nature; releases during times of high water or flood stages for purposes of passing flood waters through the dam; and the lowering of lake or pond levels that results in the release of only de minimis amounts of sediment.

It should be noted that there is often high variability in the amount of sediment and water carried by rivers and streams over an annual cycle. Such high flows may occur as a result of storm runoff or seasonal runoff of melting snow pack. Larger amounts of sediment may be considered de minimis in relationship to location of the dam and the normal amount of erosion in the watershed, and thus may not require DA authorization. This guidance does not propose to set a specific amount of sediment that could be considered de minimis or "more than de minimis". When evaluating whether any discharge is de minimis, or may be exempt from the Section 404 permit requirement under CWA Section 404(f)(1) exemption for dam maintenance activities, District Engineers should consider whether the discharge of dredged or fill material through the dam is necessary for dam maintenance, and proportional to the proposed activity and the size of the facility (i.e., size of the dam/structure and the surface acres and storage volume of the resulting impoundment). Other factors in this consideration should include the time of year and normal seasonality of high volume flows, the size of incoming and outgoing stream/river and the intended release volume, the natural hydrograph of the system, the speed of the drawdown, the normal amount of sediment in the watershed, and the potential for environmental harm. These factors should be documented as part of the decision regarding whether a DA permit will be required for the proposed release of sediments through a dam or would have been required in after-the-fact evaluations.

c. On a case-by case basis, District Engineers may consider the need to reduce the level of the reservoir through one or more flood gates and the resultant discharge of dredged material downstream, to


avoid potential catastrophic dam failure, to be an emergency subject to the emergency permitting procedures found at 33 CFR 325.2(e)(1). Sluicing through a dam of less than 25 cubic yards of material may be authorized under Nationwide Permit 18, if all other conditions of that nationwide permit are met. Districts may also consider developing Regional General Permits for larger amounts of sediments to be released through a dam, if such Regional General Permits would include appropriate conditions to protect the environment and the overall public interest. Small impact releases of sediments might possibly be authorized under Nationwide Permit 23 if an agency has an approved Categorical Exclusion.

d. When discharging sediment from or through a dam or breaching a dam, reasonable measures should be implemented to reduce potential harm to downstream waters. Reasonable measures include, but are not limited to, prior dewatering by pumping or by releasing water from the upper control structures on a reservoir; mechanical dredging or excavation of sediments and appropriate disposal; timing releases to coincide with high water periods for better dilution; more frequent flushing to keep the discharges small; releasing a sediment amount that is dependent on the amount of water flow; and installing temporary barriers to prevent exposed sediments from being transported by runoff from subsequent storm events.

6. Duration

This guidance remains effective unless revised or rescinded.

FOR THE COMMANDER:


DON T. RILEY
Major General, US Army
Director of Civil Works

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrf.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline -

to report oil and hazardous substance spills
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996

U. S. EPA Small Business Resources

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline

www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center

www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

The Town of Georgetown

P.O. Box 426

December 14, 2011

Georgetown, Colorado 80444-0426
(303) 569-2555

Preston E. Gibson, III
Area Manager, Community and Local Government Affairs
Public Service Company of Colorado
5460 W. 60th Avenue, Arvada, CO 80003

Re: Automated Strainer Installation at the Georgetown Water Treatment Plant

Dear Preston,

As we have previously discussed, Xcel's recent action to drawdown and drain Georgetown Lake (Xcel's Forebay) had a significant negative water quality impact on Upper Clear Creek and has impacted our ability to provide safe drinking water and fire protection services to the Town of Georgetown residences and business. As you know, the Town of Georgetown utilizes the Creek as the Town's drinking water source. The Town's drinking water intake which feeds our newly commissioned drinking water plant is located downstream of Xcel's Forebay. The following photos illustrate the impact of Xcel's release on the water quality of the stream. Photo 1 is just downstream of the Forebay and Photo 2 was taken in Town. Note the dark color of the stream due to the high levels of sediment and silt from the release:



Photo 1- Xcel Forebay Release



Photo 2- Clear Creek Water Quality in Town

Simply put, the Town's new drinking water system was not designed to handle high sediment and silt loads, and was severely impacted by Xcel's actions at Georgetown Lake. During and after the release, the Town was unable to treat the water in the Creek to the Drinking Water Standards required by the Colorado Department of Health and Environment without significant operator attention to manually back flush both the pretreatment strainers and the new treatment filtration membranes. In fact, the sediment and silt from the release completely fouled our brand new ultrafiltration membrane system, which required significant operator time and attention at the Town's expense to back flush and clean. As a result, the Town was forced to temporarily shutdown of our drinking water facility and disrupt treatment service. Fortunately, the Town was able to use previously treated water in our storage tank to supply drinking water to the Town, but this use reduced the stored water

volume in the tank to very low levels and created a risky situation with regard to maintaining adequate water volume for fire protection.

This event made it clear that the Town must take measures to ensure that the Town's Drinking Water Treatment Facility can better handle similar situations in the future that compromise the quality of our drinking water supply source. Specifically, we believe that use of an automatically backflushing raw water pre-treatment strainer instead of a manually cleaned strainer at the water plant would have mitigated the impact of the release by Xcel on our facility significantly. We believe that this pretreatment screen upgrade is essential to protect the water treatment plant should a similar Forebay drawdown and sediment release event occur in the future.

Accordingly, our engineer, Frachetti Engineering, Inc. (FEI), has been working with the water plant construction contractor, Fisher Construction, to determine the cost to provide an automated pretreatment strainer at the Georgetown Water Treatment plant. Following is an estimate for the Work and associated engineering:

Automatic strainers	\$40,000
DIP - piping modifications	\$7,500
Actuated valves	\$9,000
Bag filter modifications	\$7,500
Painting	\$5,000
Electrical	\$10,000
<u>Controls</u>	<u>\$7,500</u>
<u>Subtotal</u>	<u>\$86,500</u>
<u>Contractors Markup (OH&P)5%</u>	<u>\$12,975</u>
<u>Total, Fischer Construction Cost</u>	<u>\$99,475</u>
<u>Engineering (FEI Fee):</u>	<u>\$10,000</u>
Total Cost:	\$109,475.

The total cost of the required improvements of \$109,475 is dependent upon direction being issued to Fischer Construction within the next 30 days. Delays could increase the project cost since Fischer is expecting to complete related Work at the Water Treatment Facility by February 2012.

Thus, we ask PSCo for a financial commitment to pay for these required improvements to protect the Town's drinking water supply from future sediment release and the negative impacts to our drinking water facility. We also suggest that this financial commitment by PSCo would benefit PSCo Application for a Watershed Permit from the planned mud valve work on the Forebay Dam proposed for 2012. Please feel free to contact me with any questions. I am happy to discuss.

Sincerely



Town Administrator
Town of Georgetown
303/569-2555 ex 3

The Town of Georgetown

P.O. Box 426
Georgetown, Colorado 80444-0426
(303) 569-2555

December 2, 2011

Preston E. Gibson, III

Area Manager, Community and Local Government Affairs
5460 W. 60th Avenue, Arvada, CO 80003

Re: Invoice for Georgetown Forebay Drawdown and Sediment Release
Labor reimbursement for September 21st to 25th

Preston,

Attached you will find the Town of Georgetown invoice of our labor cost during and after the Georgetown Forebay Drawdown and Sediment Release.

If you have any question please contact me.

Could you direct this invoice to the appropriate department.

Sincerely

Tom Hale

Town Administrator
Town of Georgetown
303/569-2555 ex 3
303/726-4477 mobile
gtownadmin@earthlink.net



TOWN OF GEORGETOWN
INVOICE
INVOICE #2011 - 044
December 2, 2011

Thomas H. Hale
Town Administrator
Town of Georgetown
P.O. Box 426
404 6th Street
Georgetown, CO 80444-0426
Phone - 303-569-2555 ext. 3
Fax - 303-569-2705
Email - gtownadmin@earthlink.net

INVOICE ISSUED TO:

Xcel / PSCo
Preston E. Gibson, III
5460 W. 60th Avenue, Arvada, CO 80003

REMIT TO:

P.O. Box 426
Georgetown, CO 80444-0426

QUANTITY	ITEM	DESCRIPTION	UNIT PRICE	TOTAL
Payroll Cost	1	Xcel Forebay spill & Water Plant	\$5,129.00	\$5,129.00
			SUB-TOTAL	\$5,129.00
			TAX	n/a
			SHIPPING	
			MISC	
			TOTAL	\$5,129.00

Thomas H. Hale Town Administrator

The Town of Georgetown

P.O. Box 426
Georgetown, Colorado 80444-0426
(303) 569-2555

Xcel Forebay spill hours

Date	Rob Connell reg hours	Scott Shafer reg hours	Legion Wilson reg hours	John Curtis reg hours
September 21, 2011	10	5	8	14
September 22, 2011	12.5	9	8	16
September 23, 2011	6.5		8	19
September 24, 2011				12
September 25, 2011	0		8	8
September 26, 2011	1	9	4.5	8
total hours	30	33	36.5	77
total reg pay	\$435.00	\$470.25	\$536.19	\$2,516.36

	OT hours	OT hours	OT hours	
September 21, 2011				
September 22, 2011		6	3	
September 23, 2011	2	5.5	6	
September 24, 2011	8	12		
September 25, 2011	0	5.5	4	
September 26, 2011	7	0.45	0.5	
total hours	17	29.45	13.5	
total OT pay	\$332.80	\$568.24	\$270.16	

Total pay per employee	\$767.80	\$1,038.49	\$806.35	\$2,516.36
Total all employees	\$5,129.00			

The Town of Georgetown

December 1, 2011

P.O. Box 426
Georgetown, Colorado 80444-0426
(303) 569-2555

Clear Creek County

RECEIVED

DEC 06 2011

WATER QUALITY CONTROL DIVISION

Project No: 2187-041--Colorado Georgetown Project
Public Service Company of Colorado

Kimberly, D. Boes, Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.7
888 First Street, N.E.
Washington, D.C. 20426.

RE: Georgetown Forebay Drawdown and Sediment Release

Dear Secretary Boes:

The Town of Georgetown is reviewing Public Service Co / Xcel Energy's November 2, 2011 response to Federal Energy Regulatory Commission. We continue to have serious concerns about the action that took place on September 21 and the potential impact of future actions. Following are our preliminary concerns and comments.

Our concern is focused on the "sediment deposit" release into South Clear Creek and the Georgetown lake and we differ substantially with the PSCO response that minimizes this portion results of the Forebay release.

"Observations of Georgetown Reservoir and Clear Creek upstream of the Reservoir were conducted mid-day on September 22 by two PSCO agents. We noted only minor sediment deposits in (South) Clear Creek immediately upstream of the first pond of Reservoir. No fish impacts were noted. We noted some very small fish swimming in the same area." Page 3 PSCO letter November 2, 2011.

1. The photos attached clearly show that substantial sediment deposits that were dredged from the bottom of the Forebay in South Clear Creek and into Georgetown Lake. (many of these deposits, still remain in the Creek in the Georgetown Forebay outtake.) This was not the "drawdown" that was announced but rather a complete draining of the Forebay resulting in a dredging of the sediment noted in the FERC to be potentially toxic. As we have noted in our previous correspondence. One of the greatest concerns is the potential toxicity of the mud. The Forebay reservoir is at the junction of South Clear Creek and Leavenworth Creek and is the first "settling" pond for the highly mineralized outflow from the heavily mined Waldorf Basin. The result is an over twenty year sediment debris build up in the PSCO Forebay. Some of that sediment is now in our creek and settling out in the Georgetown Lake, impacting both the quality and quantity of that water supply.
2. Also included with this letter is the Water Quality Test performed by the Colorado Department of Public Health and Environment Water Quality Control Division. Given the very small size of the Town of Georgetown and staff we have not as yet undertaken a specific elements identified from this report, however even an initial read indicates metal counts that far exceed Maximum Contaminant Limit per EPA. This is not the norm for this creek.

3. We would also note that two small dead trout were taken from the intake pipe of the water treatment plant when Wastewater staff was working to restore treated water to the town service area.

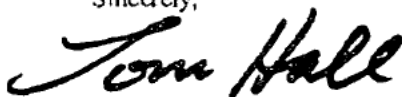
For the most part we do not have major issues with the water right that PSCo addresses in great detail and length in their response to FERC. This is not a water right issue. This is a dredging and contamination issue. We understand the PSCo desire to replace the "mud valve" on the penstock at the dam, although this activity must be permitted by the Town of Georgetown Watershed protect permitting process, (Watershed Protection District Chapter 13.50 Town of Georgetown Code) **Impact to Town of Georgetown --** We have spoken to Xcel regarding the impacts from the September 21-22 Georgetown Forebay Drawdown and Sediment Release event. Xcel has made a presentation to the Board of Selectmen but in our view none of the key issues have been resolved.

- Georgetown Wastewater staff work relentlessly until the following Sunday, September in order to bring the treatment plant back to full capacity and the remaining storage tank up to full storage creating many overtime hours.
- If this water treatment system had an automatic prescreen as opposed to a manual prescreen we would have avoided the intense labor and impact on the treatment system. We believe that this retro fit is essential to protect the water treatment plant should a similar drawdown and sediment release event occur. (We have and estimated cost for our engineers to install automated pretreatment system)
- The sediment release in this Xcel Forebay event has or will eventually settle in Georgetown Lake and likely will remain there. This represents a loss of water storage for both the Town of Georgetown and City of Black Hawk. Water in the Georgetown Lake will require further testing to determine the actual impact of the incident.
- Xcel has not indicated any willingness to assist the Town in bearing the cost of the impacts of their September actions even though those costs have been presented to them.

Finally, we believe that PSCO / Xcel has not sufficiently addressed the water quality issues for the September 21st & 22nd Georgetown Forebay Drawdown and Sediment Release nor have they addressed future issues including the next draining which will release considerably more of the sediment that remains in the for PSCO Forebay. We will need to understand that future action and the ultimate potential of operating a long dormant mud valve in this particular situation.

We hope FERC will be able to assist us in gaining PSCo attention to these matters.

Sincerely,



Thomas H. Hale
Town Administrator

Enclosure: September 28, 2011 letter from the town of Georgetown, CO,
November 2, 2011 Xcel Response to FERC
Water Quality Test by CDPHE,
PSCO Forebay and South Clear Creek Photos,
Watershed Protection District Chapter 13.50 Town of Georgetown Code)

Copies to:

Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246
Project No. 2187-041

Colorado Division of Wildlife
6060 Broadway
Denver, CO 80216

U.S. Fish and Wildlife Service
Ecological Services
Colorado Field Office
P. O. Box 25486, DFC (MS 65412) Denver, CO 80225-0486

Bureau of Land Management
Royal Gorge Field Office
3028 East Main Street
Cañon City, CO 81212

Preston E. Gibson, III
Area Manager, Community and Local Government Affairs
5460 W. 60th Avenue,
Arvada, CO 80003

Dedicated to protecting and improving the health and environment of the people of Colorado

Laboratory Services Division
8100 Lowry Boulevard Denver, CO 80230
PO Box 17123 Denver, CO 80217
303-692-3090
www.cdphe.state.co.us/lr



Colorado Department
of Public Health
and Environment

Laboratory Results For Sample Number: ENV-2011011519-

Site ID/PWSID

Site TOWN OF GEORGETOWN.
Address

CO

Contact Kelly Jacques

Phone

Fax

Email gary.halbersleben@state.co.us

Site Description S CLEAR CREEK

CollectionNum

Customer ID 00000317

Customer CDPHE-WQCD-ES
4300 Cherry Creek Drive South

Denver

CO 80246

Collected By TOWN OF GEC

Collected 09/22/2011 13:30:00

Received 09/22/2011 16:24:00

Reported 10/13/2011 00:00:00

Bottles 2 L NEUT

Matrix Surface Water

Field Fluoride

Residual Chlorine

Temperature at Receipt

Test Name	Result	Units	MCL	MRL	Method Name	Date Analyzed	Qualifier
Dissolved Oxygen*	No TEST	mg/L	no limit	0:1	SM 4500 O	09/28/2011	
			establishe			00:00:00	
Solids, Suspended*	16000	mg/L	No Limit	10	EPA 160.2	09/26/2011	
			Establishe			00:00:00	
Metal Scan Package*							
Aluminum, Total	51	mg/L	[0.05-0.2]	0.04	EPA 200.7	09/29/2011	
						00:00:00	
Arsenic, Total	0.0067	mg/L	0.010	0.001	EPA 200.8	10/05/2011	
						00:00:00	
Barium, Total	3.4	mg/L	2.0	0.002	EPA 200.7	09/29/2011	
						00:00:00	
Beryllium, Total	0.020**	mg/L	0.004	0.001	EPA 200.8	10/05/2011	
						00:00:00	
Cadmium, Total	0.26**	mg/L	0.005	0.0006	EPA 200.8	01/01/2000	
						00:00:00	
Calcium, Total	85	mg/L	No limit	0.01	EPA 200.7	09/29/2011	
			establishe			00:00:00	
Chromium, Total	0.033	mg/L	0.1	0.001	EPA 200.7	09/29/2011	
						00:00:00	
Copper, Total	12 **	mg/L	1.3	0.005	EPA 200.7	09/29/2011	
						00:00:00	
Iron, Total	10 **	mg/L	[0.30]	0.004	EPA 200.7	09/29/2011	
						00:00:00	
Lead, Total	12.9**	mg/L	0.015	0.001	EPA 200.8	10/05/2011	
						00:00:00	
Magnesium, Total	23	mg/L	No limit	0.02	EPA 200.7	09/29/2011	
			establishe			00:00:00	
Manganese, Total	43**	mg/L	[0.05]	0.002	EPA 200.7	09/29/2011	
						00:00:00	

MRL - Minimum Reporting Limit. MCL - Maximum Contaminant Limit per EPA regulations.

BDL - Below Detection Limit. H - Holding Time exceeded. Q - Quality Control limit exceeded. NT - No Test.

Units: mg/L - milligrams per liter (ppm), ug/L - micrograms per liter (ppb), pCi - picoCuries

LSD Internet Address: <http://www.cdphe.state.co.us/lr/lrhom.htm>

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Laboratory Services Division
8100 Lowry Boulevard Denver, CO 80230
PO Box 17123 Denver, CO 80217
303-692-3090
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Colorado Department
of Public Health
and Environment

Laboratory Results For Sample Number: ENV-2011011519-

Test Name	Result	Units	MCL	MRL	Method Name	Date Analyzed	Qualifier
Molybdenum Total	<0.002	mg/L	NA	0.002	EPA 200.7	09/29/2011 00:00:00	
Nickel, Total	0.29	mg/L	0.1	0.002	EPA 200.7	09/29/2011 00:00:00	
Potassium, Total	17	mg/L	NA	0.2	EPA 200.7	09/29/2011 00:00:00	
Selenium, Total	0.0016	mg/L	0.05	0.001	EPA 200.8	10/05/2011 00:00:00	
Silver, Total	0.048	mg/L	0.1	0.001	EPA 200.8	10/05/2011 00:00:00	
Sodium, Total	320	mg/L	No Limit Established	0.1	EPA 200.7	10/07/2011 00:00:00	
Uranium, Total	0.16**	mg/L	0.030	0.001	EPA 200.8	10/05/2011 00:00:00	
Zinc, Total	40	mg/L	[5.0]	0.004	EPA 200.7	09/29/2011 00:00:00	
Total Solids*	16000	mg/L	No Limit Established	10	EPA 160.3	09/26/2011 00:00:00	

Comments:

NO TEST - The dissolved oxygen content for the sample could not be determined reliably because the 2 hour holding time had been exceeded by the time the sample was received. A discussion was had with the client about this issue and it was understood that the dissolved oxygen determination would not be performed. (rli 10/5/11)

Copper

12 ** > 1.3 mg/L

Short term exposure: Gastrointestinal distress

Long term exposure: Liver or kidney damage

People with Wilson's Disease should consult their personal doctor if the amount of copper in their water exceeds the action level.

Iron

10** > 0.3 mg/L

Blackish color; rusty sediments; bitter metallic taste; brown-orange stains; iron bacteria.

Manganese

43 ** > 0.050 mg/L

Brownish color; black stains on laundry and fixtures; bitter taste.

Uranium

MRL - Minimum Reporting Limit. MCL - Maximum Contaminant Limit per EPA regulations.

BDL - Below Detection Limit. H - Holding Time exceeded. Q - Quality Control limit exceeded. NT - No Test.

Units: mg/L - milligrams per liter (ppm), ug/L - micrograms per liter (ppb), pCi - picoCuries

LSD Internet Address: <http://www.cdphe.state.co.us/lr/lrhom.htm>

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH, Executive Director and Chief Medical Officer

STATE OF COLORADO

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Colorado Department
of Public Health
and Environment

Laboratory Results For Sample Number: ENV-2011011519-

0.16>0.030 mg/L

Increased risk of kidney disease.

Lead

12.9>0.015 mg/L

Infants and children: Delays in physical or mental development; children could show slight deficits in attention span and learning abilities

Adults: Kidney problems; high blood pressure

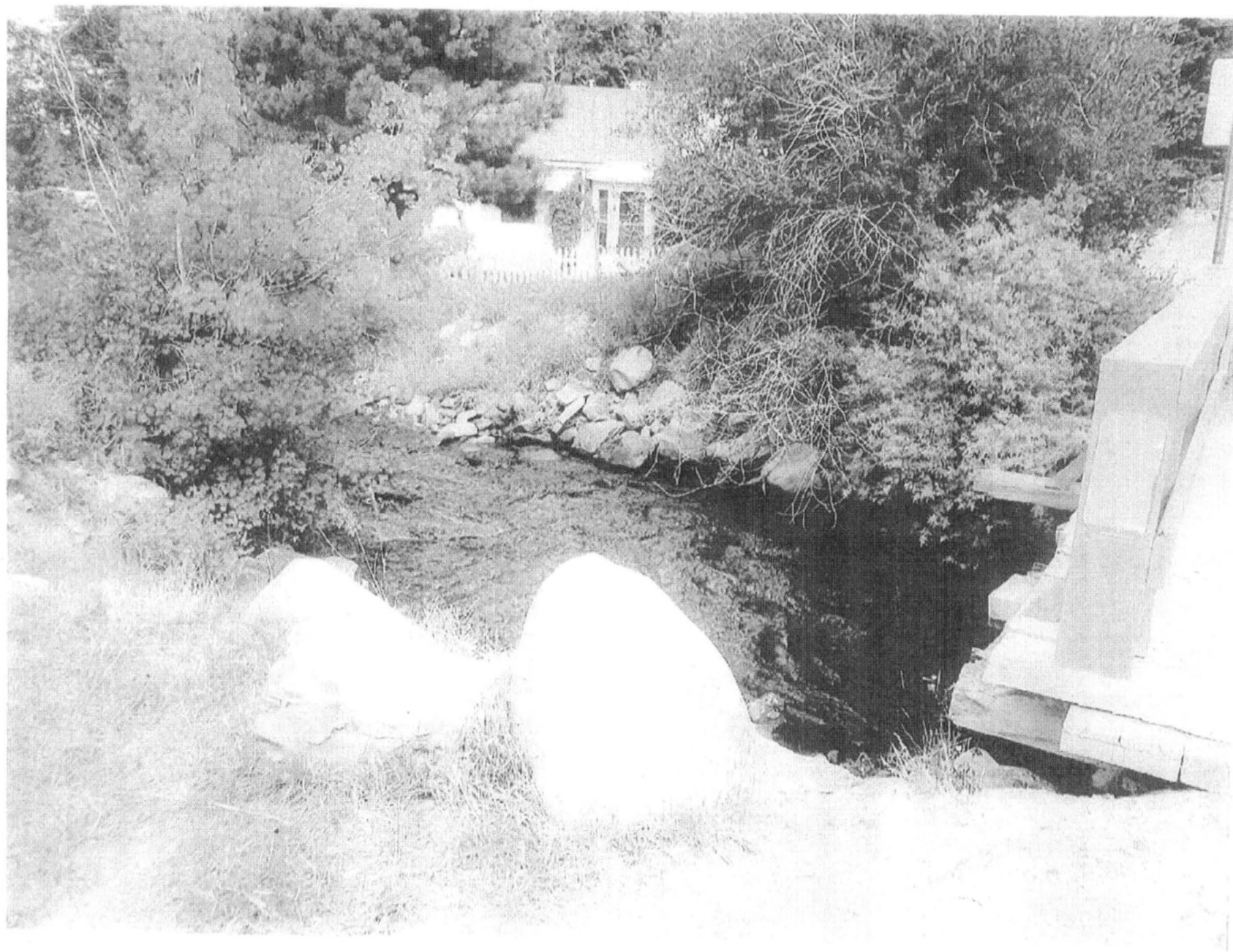
Registry Comments:

SOUTH CLEAR CREEK DISCHARGE

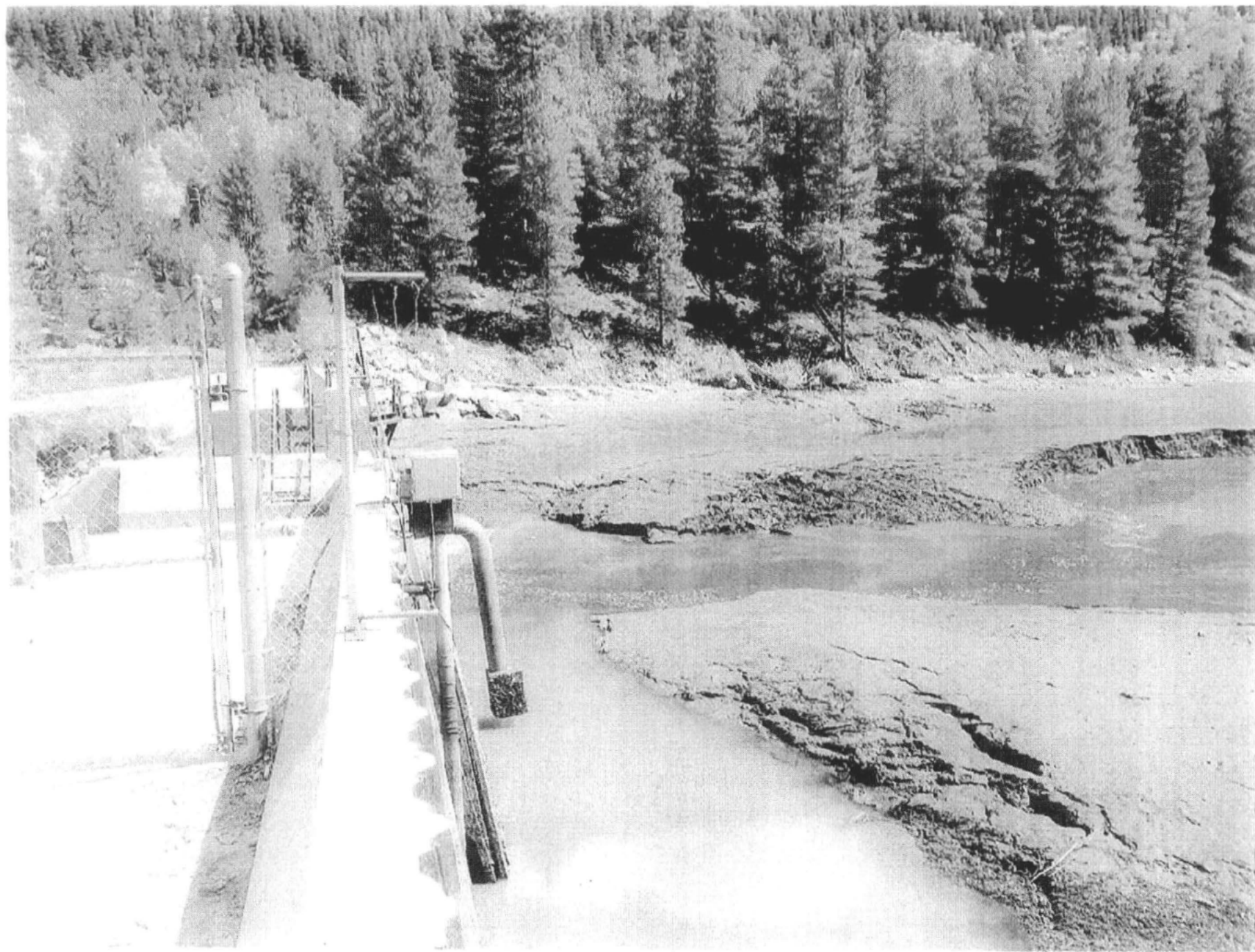
EMAIL TO KELLY.JACQUES@STATE.CO.US

MRL - Minimum Reporting Limit. MCL - Maximum Contaminant Limit per EPA regulations.
BDL - Below Detection Limit. H - Holding Time exceeded. Q - Quality Control limit exceeded. NT - No Test.
Units: mg/L - milligrams per liter (ppm), ug/L - micrograms per liter (ppb), pCi - picoCuries
LSD Internet Address: <http://www.cdphe.state.co.us/lr/lrhom.htm>













only for the operation, maintenance, debt service, replacement of and additions to the system and, after all such purposes have been satisfied, for such other uses deemed appropriate and lawful by the Board of Selectmen acting as the governing body of the W&S Enterprise. All amounts on hand in such fund shall be invested in investments proper for public funds.

(c) The Board of Selectmen shall adopt an annual budget for the W&S Enterprise, separate from the Town general fund budget. (Ord. 2 §2, 2009)

CHAPTER 13.50

Watershed Protection District

13.50.010 Watershed protection district established.

There is hereby established the Town of Georgetown Watershed Protection District for the purpose of protecting the sources, supply, quantity, quality, delivery, storage, treatment and distribution of water serving the Town, its citizens and water-using customers. (Ord. 517 §1, 2000)

13.50.020 Jurisdiction and intent of district regulations.

This Chapter has been adopted in accordance with Section 31-15-707, C.R.S., and is designed and intended to extend and enforce the Town's legal jurisdiction and authority to the maximum extent allowed by law for the purpose of protecting the Town's water resources and water delivery system from interference, pollution and other degradation over an area comprised of all territory within five (5) miles above or around any point or points from which the Town diverts or otherwise draws water for domestic use. The Town's authority and jurisdiction shall extend, by way of example and not limitation, to all reservoirs, streams, trenches, ditches, pipes, drains and other waterworks. All ordinances and regulations adopted under the authority of this

Chapter shall be liberally construed and enforced in order to satisfy and further the purposes and intent as set forth above. (Ord. 517 §1, 2000)

13.50.030 Adoption of protection district boundaries and map.

The Town does hereby approve and adopt the official Town of Georgetown Watershed Protection Area Map dated July 2000, prepared by McLaughlin Water Engineers, Ltd., defining and illustrating the geographical boundaries of the watershed protection district. At least one (1) copy of the map shall at all times be maintained in the office of the Town Clerk for public inspection during regular business hours. Copies of the map may be ordered for purchase at such cost as deemed necessary and reasonable by the Town Clerk. (Ord. 517 §1, 2000)

13.50.040 Definitions.

As used in this Chapter, the following words and phrases shall mean as follows unless the context plainly requires otherwise:

Absorption system means a wastewater disposal system or leaching field utilizing and/or inclusive of adjacent soils for the treatment of sewage by means of absorption into the ground.

Absorption trench means a trench in which sewage effluent is transported or directed for percolation into the soil.

Best management practice means the most effective means of preventing, reducing or mitigating the harmful impacts of development activities consistent with the standards set forth in this Chapter.

Development or development activity means any construction or activity which alters or changes the natural or preexisting character and/or uses of the land on which the construction or activity occurs, excepting residential gardening or landscaping.

Dispersal system means a system for the disposal of effluent after final treatment in an ISDS by a method which does not depend upon or utilize the treatment capability of the soil.

Effluent means the liquid waste discharge from an ISDS.

Excavating means any act by which ten (10) cubic yards or more of soil or rock is cut into, quarried, uncovered, removed, displaced or relocated, and includes the conditions resulting therefrom.

Filling means the deposition of ten (10) cubic yards or more of material brought from another location by other than natural means.

Foreseeable risk means the reasonable anticipation that harm or injury may result from an act or omission.

Grading means the alteration of the natural surface of any land by leveling, stripping, filling or excavating and involving ten (10) or

more cubic yards of soil or other surface material; or the alteration of any natural or preexisting drainage pattern or channel through the alteration, movement or addition of surface materials; or the installation of any road or other surface utilized for the movement of vehicles.

Individual sewer disposal system (ISDS) means an on-site sewage system of any size or flow designed to collect and treat, neutralize, stabilize and dispose of sewage that is not part of or connected to a permitted municipal sewage treatment works. Examples include, without limitation, conventional septic tanks and leach fields, absorption trenches and pits, constructed wetland treatment systems, evapotranspiration systems and mound systems.

Hydric soil means soil that, in its undrained condition, is saturated, flooded or ponded long enough during a growing season to develop an anaerobic condition that supports the growth or regeneration of hydroponic vegetation.

Maximum extent feasible means that no feasible and prudent alternative exists and all possible efforts to comply with a regulation, or minimize potential harm or adverse impacts, have been undertaken.

Person means any individual, partnership, corporation, trust, association, company or other public, governmental or corporate entity, or instrumentality thereof.

Pollute or pollution means the contamination or befouling of the natural biological, chemical, physical or radiological composition or integrity of water or soil through human or human-induced conduct or activities.

Sewage means a combination of liquid wastes that may include chemicals, house wastes, human or animal excreta, or animal or vegetable matter in suspension or solution, and/or other solids in suspension or solution, and that is discharged from, without limitation, a building, vehicle, tank or other structure or facility.

Sewage disposal system means a septic tank, leach field or other facility regardless of size or flow designed and constructed for the purpose of receiving, treating or disposing of sewage.

Sewage treatment works means any system or facility for treating, neutralizing, stabilizing or disposing of sewage and which has a designed or operational capacity to receive more than two thousand (2,000) gallons of sewage per day.

Significant degradation means to lessen in grade, quality or desirability so as to create or cause unsafe or harmful impacts.

Stream (primary) means a visible waterway expected to run flowing water for more than one (1) month per year.

Stream (secondary intermittent) means a visible waterway, normally dry and not expected to run flowing water for more than one (1) month per year.

Substantial means material and/or considerable in importance, value, degree, amount or extent.

Surfacing means the compaction, hardening or covering of the natural land surface with asphalt, concrete, gravel or similar materials, in an area greater than three hundred (300) square feet.

Watershed means the area encompassed by the Georgetown Watershed Protection District.

Watershed permit or permit means the written approval issued by the Town under this Chapter for a land use activity or development within the Georgetown Watershed Protection District.

Waterwork means any and all man-made or designed component of a domestic water collection and treatment system, including, but not limited to, transmission, storage and filtration facilities, and all reservoirs, streams, intermittent streams, trenches, gullies, pipes and drains used in and necessary for the collection and transport of water and the maintenance and operation of the Town's water supply system.

Wetland means land that has a predominance of hydric soils and that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions does support, a prevalence of hydroponic vegetation typically adapted for life in saturated soil conditions. (Ord. 517 §1, 2000)

13.50.050 Prohibited activity.

Unless exempted as provided for in this Chapter, it shall be prohibited and unlawful for any person to engage in or cause any of the following activities or conduct within the Georgetown Watershed Protection District unless such person has first obtained a watershed permit:

(1) The construction, installation, expansion or removal of any ISDS or sewage disposal system, excepting a system connected to a municipal sewage treatment works.

(2) Excavating, grading, filling, blasting or surfacing, including road building.

(3) Timber harvesting, excluding the removal of dead or diseased trees for firewood or for noncommercial domestic purposes.

(4) Drilling operations of any kind.

(5) Altering or obstructing natural or historic water drainage courses.

(6) Surface and subsurface mining operations.

(7) The out-of-doors spraying or using of fertilizers, herbicides or pesticides, excepting noncommercial applications for domestic household or gardening purposes.

(8) Using, handling, storing or transporting toxic or hazardous substances, including, but not limited to, radioactive materials, except for noncommercial domestic household purposes as permitted by law.

(9) Using, handling, storing or transporting flammable or explosive materials, except for noncommercial domestic household purposes as permitted by law, or within vehicular fuel storage tanks.

(10) Moving, tampering, adjusting, impairing, obstructing or trespassing upon any Town waterwork.

(11) Increasing or decreasing any rate of stream flow or natural or existing drainage pattern or course, except as permitted pursuant to an adjudicated water right; increasing sediment deposition in any stream; causing or increasing erosion on any slope or stream bank; or disturbing any wetland within the watershed.

(12) Any activity reasonably giving rise to a foreseeable risk of injury or pollution to the Town's sources of water supply or water supply system or waterworks. (Ord. 517 §1, 2000)

13.50.060 Permit required.

No person shall engage in or cause any development, development activity or prohibited activity or conduct identified in this Chapter without first applying for and obtaining a duly authorized watershed permit from the Town. Permits may be limited and/or subjected to expiration and renewal requirements. (Ord. 517 §1, 2000)

13.50.070 Permit application and review procedures; fee.

(a) All applications for a watershed permit shall be initiated in writing and shall include, at a minimum, the information set forth in this Section. No application shall be accepted, processed or approved unless and until it is complete and all fees associated therewith have been paid. The application shall be accompanied by not less than three (3) copies. The Town Administrator may waive certain application information requirements if he or she deems the same to be unnecessary or overly burdensome with respect to a specific proposed activity. All costs incurred by the Town in processing an application, inclusive of the costs for outside professional services or

consultants necessary to evaluate an application, shall be paid by the applicant, inclusive of testing, engineering, inspection and legal fees.

(1) The name, mailing address and telephone number of the applicant.

(2) The name, mailing address and telephone number of the owner of the land upon which the development or activity subject to the permit is to occur if different from the applicant, and written authorization from the landowner for the submission of the application.

(3) A legal description of the lot, tract, parcel or other land upon which the development is to occur.

(4) A written narrative describing the development activity for which the permit is being sought, including a general identification of the environmental characteristics of the subject land and surrounding area.

(5) A vicinity map showing the land on which the proposed development is to occur and all lots, tracts, parcels or other lands adjacent thereto, and illustrating any wetlands, lakes, ponds, water courses or other bodies of water.

(6) A boundary and improvements map or sketch of the land subject to the application containing sufficient detail and drawn at a scale to accurately illustrate, review and assess the location of all proposed development activity and existing structures, and illustrating the existing directions of slope (contours) and directions of surface runoff. A professionally prepared boundary and improvements survey may be required if the Town Administrator/Public Works Director deems the same necessary in order to adequately assess an application.

(7) A listing and copy of all federal, state or local permits or approvals required or

obtained for implementation of the development activity.

(8) A detailed description of the impacts or potential impacts the development activity may have on any surface or subsurface water sources or courses, inclusive of wetlands.

(9) A detailed description of the impacts or potential impacts the development activity may have on existing vegetation, trees and groundcover.

(10) A detailed description of the impacts or potential impacts the development activity may have on soils, inclusive of a description of the nature and condition of existing soils and any planned grading, excavation, filling or surfacing.

(11) A detailed description of the impacts or potential impacts the development activity may have on existing drainage patterns and land contours, inclusive of comparative runoff and absorption calculations for the subject land and any impacted adjacent land, both pre- and post-development.

(12) A detailed description of any proposed wastewater or sewage disposal system to be installed and a copy of the design/engineered plans, including soils and percolation test results for same.

(13) A detailed description of any proposed water supply/delivery system to be installed, inclusive of water source and anticipated consumptive use, and a copy of the design/engineered plans for same.

(14) A detailed description and copy of any and all mitigation plans or measures addressing impacts resulting from the development activity to surface and subsurface water sources, wetlands, vegetation and trees, soils, drainage and slopes.

(15) The identification of any activity to be undertaken by the applicant as part of the development that presents, or may present, a foreseeable risk of pollution or injury to the Town's water sources, supply or waterworks, along with a specific description of the best management practices designed to eliminate or minimize such risks to the maximum extent feasible.

(16) Such additional information as the applicant or Town may deem necessary to fully evaluate the proposed development and/or demonstrate or explain why a watershed permit should be issued.

(b) All applications for a watershed permit shall be filed with the Town Clerk, who shall promptly forward copies of same to the Town Administrator and Public Works Director. The application and all supporting material shall be reviewed and evaluated to determine whether the application is complete and satisfies the requirements of this Chapter. Where appropriate, and weather permitting, the Town Administrator/Public Works Director may schedule a site visit to inspect the land on which the proposed development activity is to occur. Advance notice of the time and date of such site visit shall be provided to the applicant.

(c) Within thirty (30) days following receipt of a complete application, and weather permitting for any necessary site visits or inspections, the Town Administrator shall determine whether the permit application should be granted or denied. The issuance of a permit may be conditioned upon the applicant's compliance with such mitigation measures, financial security, performance standards or time deadlines, or such other terms and conditions as the Town Administrator may deem necessary to ensure protection of the Town's water supply sources, watershed and/or waterworks from pollution, disruption or damage. A failure by an applicant to accept or timely adhere to such terms and conditions shall constitute cause to deny or revoke a permit.

(d) Any applicant dissatisfied with a decision or order made by the Town Administrator or Public Works Director under this Chapter may pursue an appeal of the same to the Board of Selectmen by filing a written notice of appeal and appropriate fee with the Town Administrator within ten (10) days from the date of the decision or order appealed from. Upon receipt of a timely notice, the Town Administrator shall agendaize the appeal for a hearing before the Board of Selectmen to be conducted not more than forty-five (45) days from the date the notice of appeal was received. The hearing shall be conducted *de novo* and written notice of the date, time and place for the hearing shall be sent by regular mail or personally delivered to the applicant not less than ten (10) days in advance thereof. A failure by the applicant to appear at the hearing without good cause shall constitute a waiver of the applicant's appeal rights and the decision or order subject to the appeal may be automatically affirmed. The applicant shall carry the burden of persuasion with regard to all issues on appeal. Decisions of the Board of Selectmen on appeal shall be entered within thirty (30) days from the conclusion of the hearing thereon and shall be reduced to writing, a copy of which shall be mailed to the applicant. The Board of Selectmen may on appeal prescribe such conditions on the issuance of a permit as it may deem necessary to protect or implement the intent and purposes of this Chapter. (Ord. 517 §1, 2000; Ord. 2 §1, 2003)

13.50.080 Permit issuance standards.

The following standards shall be applied in determining whether a watershed permit should issue under this Chapter:

(1) The compliance of the application with all application requirements set forth in this Chapter.

(2) The proximity of the proposed development activity to the Town's water supply sources and/or waterworks. No ISDS

component shall be located within a one-hundred-year flood plain. No ISDS treatment or disposal component shall be located within one hundred (100) feet from any water supply source or primary stream. No ISDS absorption component shall be located within two hundred (200) feet of any water supply source or primary stream, or fifty (50) feet from a secondary intermittent stream, and no building shall be located within one hundred (100) feet from a water supply source, waterwork or primary stream, except if connected to a municipal sewage treatment system.

(3) The environmental suitability of the proposed development activity and proposed site therefor, taking into consideration surface and subsurface water courses, soils, slopes, drainage patterns, geologic formations, existing vegetation and tree stands, wetlands, erosion, and the intensity and impact of the proposed development activity.

(4) The likelihood or threat of pollution or injury to the Town's water supply sources, watershed or waterworks presented by the proposed development activity.

(5) The effectiveness of all protective or mitigation measures proposed by the applicant to eliminate or minimize pollution or injury to the Town's water supply sources, watershed and waterworks, and the availability of alternative protective and/or mitigation measures.

(6) The overall anticipated impact of the proposed development activity on the Town's water supply sources, watershed and waterworks. (Ord. 517 §1, 2000)

13.50.090 Certificates of compliance.

(a) At or immediately prior to the completion of any development or activity performed under a watershed permit, and in all events prior to the burying or covering up of any work or facility authorized under a permit, the permittee

shall make written application to the Town Administrator or Public Works Director for inspection and the issuance of a certificate of compliance in order to establish and confirm the permittee's adherence with the provisions of this Chapter and with all terms and conditions as may have been imposed as part of the permit. As soon as reasonably practicable, and not more than fifteen (15) days after receipt of the request, weather permitting, the Town Administrator or Public Works Director, or their designee, shall inspect the subject development or activity to ascertain if there is conformance with the permit application, plan and specifications submitted to the Town and any conditions imposed as part of the permit. Alternatively, the Town Administrator may elect to allow the permittee or a qualified third-party professional to submit a written inspection report certifying that the permittee has fully complied with all permit requirements, inclusive of all plans, specifications and conditions.

(b) All costs incurred by the Town in conducting inspections shall be paid by the permittee, inclusive of any costs for outside consultants. If the inspection determines that the development conforms to the provisions of this Chapter and to all applications, plans, specifications and conditions of the watershed permit, a certificate of compliance shall be issued. However, if the inspection determines that the development or activity fails in any manner to comply as set forth above, a certificate of compliance shall not be issued. In such case, the permittee shall be informed in writing of the reasons why the certificate of compliance can not be issued and the requirements to be met before issuance of the certificate may be obtained. All follow-up inspections shall be conducted in accordance with this Section.

(c) It shall be a violation of this Section for any person who is required to obtain a watershed permit to use any land within the Georgetown Watershed Protection District without first having obtained a certificate of compliance. (Ord. 517 §1, 2000; Ord. 2 §1, 2003)

13.50.100 Wastewater and sewage disposal facilities.

(a) Notwithstanding any other provision or requirement contained within this Chapter, all wastewater and/or sewage disposal facilities or systems within the watershed protection district shall be designed by a licensed engineer and constructed, operated and maintained so as to eliminate and/or minimize to the maximum extent feasible any pollution or injury, or threat of pollution or injury, to the Town's water supply sources, watershed and waterworks. A watershed permit shall be required for the installation of any new wastewater or sewage disposal facility. Additionally, no existing wastewater or sewage disposal facility shall be expanded, repaired, replaced or abandoned without a watershed permit having first been obtained.

(b) The Town Administrator, or his or her designated agent, may investigate and inspect any wastewater and sewage disposal facility located within a watershed protection district to determine whether such facility is being properly constructed, operated or maintained. All owners and/or operators of a wastewater or sewage disposal facility shall maintain written service records on the site of said facility illustrating the age of the facility and the dates and service provider for all inspections, installations, repairs, cleanings or other maintenance performed on the facility. In order to ensure that a sewage disposal facility is constructed, performing or being maintained properly, the Town Administrator may order the owner or operator of such facility to install a monitoring well or other monitoring device as a condition for issuance of a watershed permit, or as deemed reasonably necessary to determine the operational integrity of an existing facility. In the event any owner or operator refuses access to any wastewater or sewage disposal facility, or refuses to make available service records as required under this Section, the Town shall take such steps as necessary to secure the appropriate warrants or court orders to

undertake such inspections or obtain the records, and seek to recover the costs therefor, including attorney fees, against the nonconsenting owner and/or operator.

(c) Without limiting the circumstances under which a failure of a ISDS shall be found to have occurred, the occurrence or presence of the following factors shall be deemed sufficient to establish a failure in a ISDS:

(1) Ponding in a leach field or dispersal trench.

(2) Obstructed leaching pipes.

(3) The presence of unacceptable levels of nutrients, dissolved organics or fecal coliform in soil or groundwater.

(d) All wastewater and sewage disposal systems shall, at a minimum, be designed, constructed and maintained in conformity with all applicable federal, state and local laws, standards and permits in addition to complying with the terms and conditions of this Chapter. In the event of a conflict between competing laws, standards or regulations, the most restrictive and/or protective of the Town's water supply and waterworks shall prevail.

(e) Minimum separation distances between ISDS components and protected structures or physical features as required by this Chapter shall be maintained at all times unless soil, geological or other conditions warrant greater distance separation. ISDS components that are not watertight should not extend into areas occupied by the root systems of nearby trees. Where repair or upgrading of an existing ISDS is involved, and the size of the lot or parcel precludes adherence to the distance separation standards prescribed in this Chapter, the repairs or repaired system components shall not be closer to protected structures or features than first existing.

(f) All owners or operators of substandard wastewater and sewage disposal systems existing within the watershed protection district on or before the effective date of this Chapter shall be provided notice and a reasonable period of time in which to correct any deficiency or noncompliance with respect to their systems and the requirements of this Chapter. (Ord. 517 §1, 2000; Ord. 2 §1, 2003)

13.50.110 Water quality monitoring plans.

Notwithstanding any other provision or requirement contained within this Chapter, the Public Works Director may require the preparation and implementation by an applicant of a water quality monitoring plan and program as a condition for the issuance of the watershed permit. Such plan may include the installation of monitoring devices, the regular collection of soil and water samples and the establishment of reporting requirements. The costs for the design, implementation and inspection of any water quality monitoring plan shall be borne by the applicant. (Ord. 517 §1, 2000)

13.50.120 Delegation of authority.

The Town Administrator may from time to time devise, adopt and enforce supplemental administrative, procedural or technical/engineering rules and regulations as he or she may deem necessary and advantageous to the successful implementation and enforcement of the provisions of this Chapter, inclusive of the preparation of standardized forms and fees associated with the evaluation and issuance of permits. All rules and regulations must be consistent with the terms of this Chapter. The Board of Selectmen may review, amend or vacate such rules and regulations upon written complaint or appeal. (Ord. 517 §1, 2000; Ord. 2 §1, 2003)

13.50.130 Certain activities excepted; de minimis exemptions.

(a) The Town Administrator may determine upon written request that an activity or

proposed schedule of activities to be undertaken within the watershed protection district presents a de minimis risk of pollution to or disruption of the Town's water supply, watershed and/or waterworks and may, thus, exempt or except such activity or activities from some or all of the application and/or permit requirements as contained in this Chapter. The burden will be upon the applicant seeking an exemption to supply sufficient information to demonstrate that the activity in question will present no more than a de minimis threat or risk to the Town's water supply and/or water supply system. In no event shall the installation or repair of an ISDS be deemed an exempt activity, and in all events an applicant must provide the Town Administrator written notice of when and where any exempted activity is to occur.

(b) All exceptions or exemptions must be reduced to writing, specifically identify the activities excepted hereunder and any conditions with regard thereto, and specify in detail the basis for such exception or exemption. In the event an excepted or exempted activity is not fully implemented or concluded in the manner as represented and authorized under this Section, the Town Administrator or Public Works Director shall order the cessation or correction of such activity in accordance with the enforcement provisions contained in this Chapter. (Ord. 517 §1, 2000; Ord. 2 §1, 2003)

13.50.140 Enforcement.

(a) Right of entry. When it is necessary to make an inspection to enforce the provisions of this Chapter or the terms and conditions of any permit, or where reasonable grounds exist to believe that a condition, activity or facility on any premises presents a threat of pollution or injury to any of the Town's water sources, supplies or waterworks, the Town Administrator, or his or her designee, may enter onto such premises at reasonable times to inspect and/or perform such investigation and duties as called for under this Chapter; provided that if the premises are occupied, proper identification shall be shown to

the person on the premises and a request for access be made. If the premises are unoccupied, reasonable efforts shall be made to locate and/or provide notice to the owner or operator of the land or facility in question of the desired access. If access is refused, a warrant to enter onto the premises shall be obtained *ex parte* from the Municipal Court.

(b) Stop work and cease and desist orders. Whenever any development or activity is being performed or continued in violation of the provisions of this Chapter or the terms and conditions of a permit, or where it is determined that a permit was issued in error or as the result of incorrect, inaccurate or misleading information, the Town Administrator or Public Works Director may execute and issue a written stop work and/or cease and desist order commanding that the subject development or activity immediately cease and/or be corrected. A stop work and/or cease and desist order shall set forth in plain language the nature of any violation and shall be served on the permittee or person engaged in the prohibited development or activity by personal service or by regular mail. A copy of the order shall also be posted at some conspicuous place on the subject premises. Appeals or challenges to a stop work or cease and desist order shall be heard by the Board of Selectmen upon written request filed with the Town Clerk not less than five (5) working days after service of the order on the permittee or person contesting same. The failure of a person to timely file an appeal or challenge, or to appear at the hearing thereon, shall constitute a waiver of his or her right to contest the order. Hearings shall be conducted by the Board of Selectmen within thirty (30) days from the date on which the written notice of appeal or challenge was filed with the Town Clerk. Written notice of the hearing shall be sent by regular mail or personally served on the appellant not less than ten (10) days in advance thereof. The continuation of any development or activity subject to a stop work or cease and desist order shall constitute a violation of this Chapter.

(c) Permit revocation.

(1) All watershed permits shall be subject to revocation by the Town Administrator for violations of this Chapter or the rules and regulations adopted pursuant thereto, inclusive of stop work and cease and desist orders. Written notice of a proposed revocation shall be mailed to the permittee not less than fifteen (15) days prior to the effective date of the revocation and shall set forth in plain language the grounds justifying the revocation. A hearing on the revocation shall be conducted by the Board of Selectmen upon the written request of the permittee filed with the Town Clerk prior to the effective date of the revocation. All hearings shall be promptly scheduled before the Selectmen by the Town Clerk and written notice thereof mailed to the permittee at least five (5) business days in advance thereof. The effectiveness of any order of revocation shall be stayed pending the decision of the Selectmen on appeal, except where the Town Administrator certifies in writing that a delay in revoking the permit will present a clear and immediate danger to public health, safety, welfare or property. All decisions on appeal shall be reduced to writing and a copy thereof provided to the permittee.

(2) Upon the revocation of a permit, the Town may require the permittee to restore any land, facility or site to such condition as deemed necessary to prevent pollution or injury to the watershed or any water source, supply or waterwork. Upon the failure of the permittee to timely perform such restoration, the Town may, at its option, perform or have performed the restoration and assess the costs thereof against the permittee, inclusive of the imposition of a lien against the permittee's property on which such restoration work took place. (Ord. 517 §1, 2000; Ord. 2 §1, 2003)

13.50.150 Violations and penalties.

(a) It shall be unlawful for any person to engage in or cause a violation of any provision of this Chapter or of any term or condition of any watershed permit, and such person shall be fined upon conviction thereof in an amount up to one thousand dollars (\$1,000.00), and/or imprisoned up to one (1) year in jail.

(b) Any development, activity, facility or structure which is continued, operated or maintained in violation of this Chapter or the terms and conditions of any watershed permit shall be subject to injunction, abatement and/or other appropriate legal remedy as may be sought and obtained by the Town, in which event the Town shall be entitled to recover its reasonable costs and attorney fees from the offending party or parties.

(c) All penalties and remedies for violations of this Chapter shall be nonexclusive and cumulative, and the Town's pursuit and/or exercise of one (1) remedy or penalty shall not foreclose or prohibit the pursuit and exercise of alternative or other remedies. (Ord. 517 §1, 2000)

CHAPTER 13.60**Water Conservation****13.60.010 Purpose and applicability.**

Water being a finite and precious resource necessary for the preservation and advancement of the public health, safety and welfare, it is the purpose of this Chapter to regulate water use so as to promote the conservation of the Town's water resources, prevent waste, insure adequate and consistent supplies of water for human consumption, fire suppression and economic development, and to protect and enhance the natural environment. The provisions contained in this

Chapter shall apply to all water users and properties served by the Town's potable water delivery system, whether located inside or outside the Town's geographical limits. (Ord. 5 §1, 2002)

**13.60.020 Water supply shortages;
mandatory use restrictions.**

(a) Mandatory water conservation measures and use restrictions as set forth in this Section shall be effective and enforced whenever the Board of Selectmen declares by written resolution adopted at a regular or special meeting that a water shortage exists, or is threatened to imminently occur, and that water use must be restricted in the interests of public health and safety. Mandatory water use restrictions shall be imposed whenever one (1) or more of the following circumstances occur:

(1) The Colorado Department of Natural Resources, through the State Engineer or duly authorized Division Engineer, or a court of competent jurisdiction, issues a notice and/or order (call out) directing the total or partial discontinuance by the Town of water diversions needed to supply the Town's water system.

(2) Daily demand on the Town's water supply system for water service exceeds, or is anticipated to exceed, ninety-five percent (95%) of the system's water treatment capacity.

(3) The Town's raw water supply or water treatment facilities are insufficient or unable to satisfy daily water use demand, or anticipated water use demand, by reason of drought, mechanical or infrastructure failure, or natural or man-made catastrophe.

(b) Whenever the Board of Selectmen declares that a water shortage exists or is threatened to imminently occur and that water use restrictions shall be implemented and enforced, a



1800 Larimer Street, Suite 1300
Denver, Colorado 80202-1414

Project No. 2187-CO
Georgetown Project

November 2, 2011

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.7
888 First Street, N.E.
Washington, D.C. 20426

RE: Georgetown Forebay Drawdown

Dear Secretary Bose:

On behalf of Public Service Company of Colorado ("PSCo"), this letter responds to your October 19, 2011 request for information concerning the drawdown of the Georgetown Forebay on September 21-22, 2011. Your letter contained several bullet requests and the responses below follow that order.

The Georgetown Hydroelectric Project includes a forebay dam located on South Clear Creek upstream of the Town of Georgetown, which supplies water to a penstock and the hydroelectric plant located in Georgetown. The forebay is approximately 2.5 surface acres and contains 7.85 acre feet of decreed water storage. The Town of Georgetown has a diversion for its water rights approximately one mile downstream from the forebay. No other points of diversion for water rights that allow consumptive use of water exist downstream between Georgetown Forebay Dam and Georgetown Reservoir, which is an on-channel reservoir on Clear Creek downstream from the Town of Georgetown.

The design of the Georgetown Forebay, including its low-level outlet valve, is not unusual. Many diversion structures and low-head dams have low-level outlet works for both dam safety and to clear sediment that accumulates behind the structure. Ordinarily, the sediment is cleared when flows in the stream are high (i.e. spring) so that there is sufficient flow to push the sediment and to minimize the impact on the stream. As discussed below, PSCo chose to open the low-level outlet valve in the fall this year based on safety concerns.

As discussed further below, PSCo is working with the Town of Georgetown to address the town's concerns about the September drawdown. PSCo will attend a meeting with local officials on November 8, 2011 to discuss the drawdown and notification of future activities associated with hydroelectric facilities on South Clear Creek.

Chronology of Events and Data

PSCo is currently planning for work at the forebay dam that is scheduled for completion in the fall of 2012. The work plan currently includes a number of items, including relining about 90 feet of the penstock, relining of the low-level outlet pipe, replacement of intake gates for the penstock and low-level outlet pipe, and installation of trash racks at the two inlets. This work is required due to the age of these structures and to ensure the forebay dam is operated in a safe manner. In order to complete the project planning and engineering, an inspection of the existing facilities was necessary. This inspection required lowering the reservoir level so that the structures could be observed. PSCo lowered the reservoir by opening the low-level outlet valve. Due to the age of the low-level outlet valve and because it had not been utilized in some time, it was uncertain about how it would function. Using this valve to lower the reservoir level allowed PSCo to determine the functionality of the valve. We determined that the best time to operate the valve safely was in the fall when there was not as much head pressure on the valve, so that the valve would be easier to close. The inspection was scheduled for September 22, 2011.

The Town of Georgetown's water intake structure is located approximately one mile downstream of the forebay. We expected that some sediment would be generated in this activity and wanted to ensure that Georgetown was aware of our planned activity in the event they wanted to operate their intake structure and water treatment plant in a different manner. Therefore, on September 14, 2011 PSCo's Plant Superintendent of Hydro Operations & Maintenance provided notification of our intent to lower the forebay beginning on September 21, 2011, to the Town of Georgetown's Water/Wastewater Superintendent. The Georgetown Superintendent said that as a precaution he would close the town's intake on South Clear Creek below the Forebay Dam during that period. Georgetown's Superintendent contacted PSCo's Superintendent on the morning of September 21 to confirm that we still planned to proceed with lowering the forebay. He did not express any concern about the operation of the valve or inspection to PSCo's Superintendent during either conversation. Our understanding is that Georgetown did close their community system water intake for approximately 24 hours from September 21 – 22, 2011.

Because water releases from the forebay are under the jurisdiction of the Division of Water Resources, PSCo also notified the District 7 Water Commissioner of the plans to draw down the forebay. This notification was given on or about September 15, 2011. The Water Commissioner directed PSCo to bypass water from South Clear Creek, at the same rate as inflow to the forebay, to avoid injury to downstream water rights. PSCo also discussed the planned use of the low-level outlet valve to draw down the reservoir to the State Dam Inspector on September 14, 2011 during the inspection of another PSCo facility. The State representative did not indicate any concerns with the activity at the time of the discussion.

While the reservoir drawdown is considered routine operation and thus did not require notification by PSCo, we did have the opportunity to discuss with FERC during an operations inspection on or about August 31, 2011 that we planned to use the low-level outlet valve to draw down the Georgetown Forebay. The FERC representative did not indicate any concerns with the activity at the time of the August discussion. PSCo is aware that Article 402 of the Project license requires 90-day notification to FERC and advance plan approval for dredging activities. However, the drawdown of the Georgetown Forebay was not undertaken as an alternative to, or can it reasonably be considered the equivalent of dredging activities under the terms of Article 402. Therefore, a formal notification specified by Article 402 was not required.

The low-level outlet valve was opened at approximately 9 to 9:30 a.m. on September 21, 2011 and the drawdown was completed by the following morning for the inspection. It was partially closed (down to 6-inches, on a 30-inch diameter pipe) at approximately 10 to 10:30 a.m. on September 22, which allowed the forebay to refill and eventually allow flow to bypass over the dam spillway. This was done in order to adhere to the Water Commissioner's instructions, as he again instructed us to do so on September 22. In addition, PSCo released additional water from Clear Lake (the upstream reservoir associated with the Project) to augment the natural flows of South Clear Creek and reduce the filling time for the forebay. The low-level outlet valve was fully closed the morning of September 23, after the siphon for the Town of Georgetown had been established on September 22 and the forebay was full and started to flow through the spillway. During that period, the streamflow volume in South Clear Creek was 35-40 cfs. The complete drawdown cycle took the forebay reservoir elevation from 9198 ft. to 9178.4 ft. and back and was completed by the evening of September 22, 2011. PSCo did not take any water quality data measurements during the drawdown period from September 21 - 22. However, the Town of Georgetown apparently did collect a water sample on September 22 that was sent to the Colorado Department of Public Health and Environment lab for analysis and comparison against drinking water standards. We do not believe these standards are appropriate for the issue at hand and the more appropriate measure would have been against stream-specific, water quality standards.

Consumptive Water Use Impact Assessment

As stated earlier, PSCo's Superintendent notified the Town of Georgetown's Water/Wastewater Superintendent on September 14 about plans to open the low level outlet of the Georgetown Forebay Dam and the possibility of downstream sediments. The Georgetown Superintendent said that as a precaution he would close the town's intake on South Clear Creek below the Forebay Dam during that period. On September 21, the Georgetown Superintendent called PSCo's Superintendent to verify that the valve opening and inspection was still scheduled. The Georgetown Superintendent did not express any concern about shortage of water to the town during either conversation.

As discussed above, Cabin Creek Project staff notified the State Water Commissioner about plans to draw down Georgetown Forebay for the scheduled inspection. The Water Commissioner is the State official charged with administering diversions of water for beneficial use in Colorado. The Water Commissioner gave no indication of anticipated adverse impact to any water rights.

Besides the diversion for the Town of Georgetown, no other points of diversion for water rights that allow consumptive use of water exist downstream between Georgetown Forebay Dam and Georgetown Reservoir, which is an on-channel reservoir on Clear Creek downstream from the Town of Georgetown. We believe that any additional suspended sediment in the stream would have settled in Georgetown Reservoir, and that no adverse impacts to consumptive water use could have occurred downstream.

Environmental Impact Assessment

Observations of Georgetown Reservoir and Clear Creek upstream were conducted mid-day on September 22 by two PSCo agents. They noted only minor sediment deposits in Clear Creek immediately upstream of the first pond of Georgetown Reservoir. No fish impacts were noted. They noted some very small fish swimming in this same area. They also noted minor sediment deposits in the first pond of the reservoir and again some very small fish. There were also many people fishing in Georgetown Reservoir in the area where the first pond flows into the primary

reservoir. They also noted sediment deposited immediately downstream of the Georgetown Forebay Dam.

PSCo believes that any sediment deposition that occurred as a result of lowering the forebay is minimal and temporary in nature, not harmful to the environment, and will be mitigated during high flows in the spring. An inspection of South Clear Creek from the vicinity of the Georgetown Hydroelectric Plant to Georgetown Reservoir on Friday, September 30, noted that the channel had already been mitigated of any significant sediment.

Agency Communication

As noted above, PSCo representatives took the opportunity to communicate this project and the planned inspection activities of September 22 to the FERC representative on or about August 31, to the State Dam Inspector on or about September 14, and to the District 7 Water Commissioner on or about September 15, 2011. Due to the routine nature of the inspection activity, PSCo did not communicate this with other state or federal agencies. As stated above, PSCo did communicate the planned inspection activities to the Town of Georgetown, Water/Wastewater Superintendent on September 14, 2011. The Water/Wastewater Superintendent confirmed the activities and schedule the morning of September 21, 2011. During the drawdown event on September 22, the Colorado Department of Public Health and Environment did inspect the project and requested a written description of what occurred from PSCo. A copy of PSCo's response letter is enclosed with this correspondence.

The Georgetown Town Manager contacted a PSCo Community Relations representative at 7:30 p.m. on September 22 to advise that he was concerned about the depletion of their water reserves due to the inoperability of their water treatment facility. The Town Manager stated that the town was working on a water storage tank project, that their larger storage tank was not in operation, and that the only storage they had was in a small tank that was draining quickly. PSCo staff asked what protocol was used to determine when the town opened its intake and was told by the Town Manager that water treatment facility staff visually inspected the clarity of the water prior to opening. PSCo believes the water intake was opened too early and that caused the inoperability of their water treatment facility. We discussed options to secure potable water delivery to the Georgetown storage tanks. The Town Manager indicated he would call Silver Plume and Denver Water to ask if they could provide water delivery and PSCo was going to call private delivery firms. At about 10:30 p.m., the Town Manager indicated that the water treatment facility was partially operating, was refilling their water tank, and was meeting demand. He also confirmed that Silver Plume could deliver potable water, if needed.

Future Operations

We are continuing to plan for the work described above for the fall of 2012. We are investigating alternative methods for drawing down the forebay in preparation for the 2012 work that may not rely exclusively on utilizing the low-level outlet valve. PSCo plans to submit a plan and schedule for this work to FERC for review and approval prior to conducting this project.

Utilization of the low-level outlet valve is required in future operations to ensure that the required storage is maintained in the forebay to allow us to exercise the water rights associated with the Project and power generation. The other purpose of the valve is for dam safety. If there is ever a concern with the dam, we must have a way to quickly lower the reservoir. However, we are investigating methods for using the low-level outlet valve that would minimize impacts to the stream.


PSCo is aware of its responsibility to promptly report to FERC any deviations from the license requirements. PSCo respectfully submits that no such deviation has occurred in conjunction with the reasonable actions it has taken in conjunction with the drawdown of the Georgetown Forebay. Should PSCo determine in the future a need to dredge the Georgetown Forebay, we recognize our responsibilities under the terms of the FERC license, most particularly Article 402.

Although there were communications between PSCo and Georgetown regarding drawdown of the forebay well in advance of the activity, we are aware that some in the county and the town did not believe that they were provided adequate notification about our activities at the forebay. We will meet with local officials on November 8, 2011 to discuss any concerns they may have and how we intend to handle notifications for our future activities associated with hydroelectric facilities on South Clear Creek.

Please note that the information provided above is based on the available information which has been provided to me as of this date and is based on ongoing discussions and investigations being undertaken internally. We will be pleased to provide you such further information as may become available.

Please contact me at (303) 294-2195 if you have any questions.

Sincerely,


Randy Rhodes
Senior Water Resources Analyst
Enclosure: CDPHE Response Letter

cc: Town Administrator
Town of Georgetown
P.O. Box 426
Georgetown, CO 80444-0426

Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246

Colorado Division of Wildlife
6060 Broadway
Denver, CO 80216

U.S. Fish and Wildlife Service
Ecological Services
Colorado Field Office
P. O. Box 25486, DFC (MS 65412)
Denver, CO 80225-0486

Bureau of Land Management
Royal Gorge Field Office
3028 East Main Street
Canon City, CO 81212



1800 Larimer Street
Denver, Colorado 80202-1414

October 3, 2011

Ms. Kelly Jacques
Colorado Department of Public Health
and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

RE: CDPHE Reference No. 2011-0694; Georgetown Hydroelectric Project

Dear Ms. Jacques:

On behalf of Public Service Company of Colorado ("PSCo"), this letter responds to your September 26, 2011 email regarding the discharge of water and sediment associated with PSCo's inspection and operation of its Georgetown Forebay dam on September 21 and 22, 2011. We do not believe that this event is subject to the Colorado Water Quality Control Act or the jurisdiction of the Water Quality Control Division ("Division"). The operation of the Forebay is controlled by a license issued by the Federal Energy Regulatory Commission (FERC) and an associated 401 certification from the Division, and the event was related to a release of legally stored water for purposes related to dam maintenance as allowed by Colorado water law. Although we do not have a spill reporting obligation with respect to this event, we nevertheless wanted to be responsive to your request and to provide you with further information.

Background

PSCo, an Xcel Energy company, operates the Georgetown Hydroelectric Project (Project) under a license issued by FERC, Project No. 2187. The facilities associated with the Project were constructed from 1893 through 1906. The Project began operation in 1906 and has operated continuously since that time. The Project includes a Forebay dam located on South Clear Creek upstream of the Town of Georgetown, which supplies water to a penstock and the hydroelectric plant located in Georgetown. The Forebay is approximately 2.5 surface acres and contains 7.85 acre feet of decreed water storage, although the actual storage volume available today is less than the decreed amount. Clear Lake, also part of the Georgetown Project, is located about 1.3 miles upstream of the Forebay and provides additional decreed storage to supplement winter streamflows for power generation and to keep the project operating on a continuous basis.

The Project was relicensed with FERC in the 1990s, and a new license was issued February 28, 1996. The relicensing process required a water quality certification under Section 401 of the Clean Water Act, which was provided by the Division in a letter dated April 29, 1991. The certification noted that there are "no negative water quality impacts from leaving this project in place". The FERC license here preempts the Division's jurisdiction and the FERC license and associated 401 certification operate to exempt operations at the Forebay from Regulation 31.

Forebay Inspection

PSCo is currently planning for maintenance work at the Forebay dam that is scheduled to be completed in fall 2012. The maintenance plan currently includes a number of items, including relining about 90 feet of the penstock, relining of the low-level outlet pipe, replacement of intake gates for the penstock and low-level outlet pipe, and installation of trash racks at the two inlets. This work is required due to the age of these structures and to ensure the Forebay dam is operated in a safe manner.

In order to complete the project planning and engineering of the project, an inspection of the existing facilities was necessary. This inspection required the drawdown of the reservoir so that the structures could be observed. PSCo drained the reservoir by opening the low-level outlet valve. Due to the age of the low-level outlet valve and because it had not been utilized in some time, it was uncertain about how it would function. Using this valve to drain the reservoir allowed PSCo to determine the functionality of the valve. We determined that the best time to operate the valve safely was in the fall when there was not as much head pressure on the dam, so that the valve would be easier to close and that it would not cause any undue stress on the dam. The inspection was scheduled for September 22, 2011.

The Town of Georgetown's water intake structure is located downstream of the Forebay. We expected that some sediment would be generated in this activity and wanted to ensure that Georgetown was aware of our planned activity in the event they wanted to operate their intake structure and water treatment plant in a different manner. Therefore, on September 14, PSCo's Plant Superintendent of Hydro Operations & Maintenance provided notification of our intent to empty the Forebay beginning on September 21, 2011, to the Town of Georgetown's Water/Wastewater Superintendent. Georgetown's Water/Wastewater Superintendent contacted PSCo's superintendent on the morning of September 21 to confirm that we still planned to proceed with emptying the Forebay.

While the reservoir drawdown is considered routine maintenance and thus did not require notification by PSCo, we did notify FERC during an inspection of another PSCo facility on or about August 31 that we planned to use the low-level outlet valve to drain the Georgetown Forebay. The FERC representative noted no concerns with the activity at the time of the notification.

Because water releases from the Forebay are under the jurisdiction of the Division of Water Resources, PSCo also notified the District 7 Water Commissioner of the plans to

empty the Forebay. This notification was given on or about September 15. The Water Commissioner directed PSCo to bypass water from South Clear Creek, at the same rate as inflow to the Forebay, to avoid injury to downstream water rights holders. PSCo also provided notification of the planned use of the low-level outlet valve to drain the reservoir to the State Dam Inspector on September 14 during the inspection of another PSCo facility. No concerns with the activity were noted by the State Dam Inspector.

The low-level outlet valve was opened at approximately 9 to 9:30 a.m. on September 21. It was partially closed (down to 6-inches, on a 30-inch diameter pipe) at approximately 10 to 10:30 a.m. on September 22, which allowed the Forebay to refill and eventually allow flow to bypass over the dam spillway. This was done in order to adhere to the Water Commissioner's instructions, as he again instructed us to do when he was on-site on September 22. In addition, PSCo released additional water from Clear Lake to augment the natural flows of South Clear Creek and reduce the filling time for the Forebay. The low-level outlet valve was fully closed on September 23, after the siphon to Georgetown had been established on September 22 and the Forebay was full and started to flow through the spillway.

Observations of Georgetown Reservoir and Clear Creek upstream of the Reservoir were conducted mid-day on September 22 by two PSCo agents. We noted only minor sediment deposits that appeared to have originated from the Forebay in Clear Creek immediately upstream of the first pond of the Reservoir. No fish impacts were noted. We noted some very small fish swimming in this same area. We also noted minor sediment deposits in the first pond of the Reservoir and again some very small fish. There were also many people fishing in Georgetown Reservoir in the area where the first pond flows into the primary Reservoir. We also noted sediment deposited immediately downstream of the Georgetown Forebay dam.

PSCo believes that any sediment deposition that occurred as a result of emptying the Forebay is temporary in nature, not harmful to the environment, and will be mitigated during high flows in the spring. An inspection of South Clear Creek from the vicinity of the Georgetown Hydroelectric Plant to Georgetown Reservoir on Friday, September 30, noted that the channel had already been mitigated of any significant sediment.

Future Operations

We are continuing to plan for the maintenance work described above for the fall of 2012. We are investigating alternative methods for emptying the Forebay in preparation for the 2012 work that may not rely exclusively on utilizing the low-level outlet valve. We do intend to utilize the low-level outlet valve in the future to ensure that proper storage is maintained in the Forebay to allow us to exercise the water rights associated with the Project and power generation. The other purpose of the valve is for dam safety. If there is ever a concern with the dam, we must have a way to quickly empty the reservoir.

The design of the Georgetown Forebay is not unusual. Many diversion structures and low-head dams have low-level outlet works for both dam safety and to clear sediment

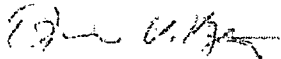
that accumulates behind the structure. Ordinarily, the sediment is cleared when flows in the stream are high (i.e. spring) so that there is sufficient flow to push the sediment and to minimize the impact on the stream. (As noted above, we felt it necessary to test the valve this fall when there was not as much head pressure on the dam, to avoid undue stress on the dam.) We do not believe that municipalities, irrigation companies, and other diversion dam owners typically provide notice to the Water Quality Control Division prior to these activities, or that such notice is required.

Although there were communications between PSCo and Georgetown regarding draining the Forebay well in advance of the activity, we are aware that some in the County and the Town did not believe that they had been provided adequate notification about our activities at the Forebay. We plan to meet with local officials to discuss any concerns they may have and how we intend to handle notifications for our future activities associated with hydroelectric facilities on South Clear Creek.

Please note that the information provided above is based on the available information which has been provided to me as of this date and is based on ongoing discussions and investigations being undertaken internally.

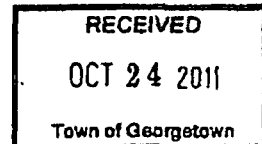
Please contact me at (303) 294-2165 if you have any questions.

Sincerely,



Quinn V. Kilty
Manager, Air and Water Quality

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426



OFFICE OF ENERGY PROJECTS

Project No. 2187-041--Colorado
Georgetown Project
Public Service Company of Colorado

Mr. Randy Rhodes
Public Service Company of Colorado
4653 Table Mountain Drive
Denver, CO 80403

October 19, 2011

Subject: Report of drawdown and turbid water release at Georgetown Forebay

Dear Mr. Rhodes:

We received a report of the drawdown of the Georgetown Forebay and ensuing turbid water release that occurred on or around September 21, 2011, at the Georgetown Project No. 2187 in Clear Creek County, Colorado. The report (enclosed) from the town of Georgetown (Town), CO states that the entire forebay was drawn down, thereby resulting in mud filling South Clear Creek from the forebay to Georgetown Lake. The Town also states that the resultant turbidity forced the Town to shut down its water filtration plant for approximately 24 hours. Additionally, the Town presumed that the drawdown was in preparation to replace a mud valve, which would require another complete drawdown. Finally, the Town expressed concern about the potential toxicity of the sediments sluiced from the forebay.

Ordering paragraph (E) of your project license¹ requires compliance with the standard license articles set forth in Form L-16. Standard license Article 14 requires that you are responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution.

Article 402 of your project license also requires that at least 90 days before the start of dredging activities, you should file for Commission approval, a plan to conduct tests for, minimize inputs of, and safely dispose of contaminated sediments and spoils. While the event in question does not appear to have involved physical extraction of

¹ See 74 FERC ¶ 62,097. Order Issuing Subsequent License (Minor Project) (Issued February 28, 1996).

sediments with mechanical equipment, the sluicing of tainted sediments from the forebay could be considered a dredging-type activity. Further, we note that during project relicensing, it was anticipated that you would maintain the forebay water surface elevation to minimize disturbances of sediment and to avoid any potential environmental impacts.² Nonetheless, Article 402 was created to prevent the release of tainted mining sediments from being resuspended in the water column, should dredging in the forebay become necessary in the future.

So that we may further review the events surrounding this incident and your compliance with the requirements of your project license, please file a report with the Commission that includes the following information:

- a detailed chronology of events leading up to and including the forebay drawdown and turbid water release, including the date(s) of the incident, applicable streamflow and reservoir elevation records, the results of any water quality monitoring conducted during the incident, and any corrective actions taken in response to the incident;
- an account of any adverse impacts to consumptive water use and any actions that were taken to prevent or mitigate for these adverse effects;
- an account of any environmental impacts that may have occurred during the period of elevated turbidity levels and any actions that were taken to prevent or mitigate for adverse effects to aquatic organisms;
- documentation of any advance coordination and/or subsequent correspondence with the natural resource agencies and local stakeholders, including the Colorado Division of Wildlife, the Colorado Department of Public Health and Environment, the U.S. Fish and Wildlife Service, the U.S. Bureau of Land Management, and the town of Georgetown, CO; and
- a summary of your current procedures for drawing down Georgetown Forebay, and for coordinating in advance with the resource agencies and preparing a sediment and spoil control plan. Please also include a proposal for avoiding similar incidents in the future.

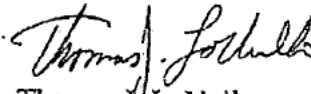
² See Notice of Availability of Final Environmental Assessment-Project No. 2187-002 (issued August 24, 1995).

We remind you that a report of any deviations from the requirements of your project license, including the event referenced above, should be filed with the Commission Secretary. Please file the information requested above as soon as possible, but no later than **14 days from the date of this letter**. The Commission strongly encourages electronic filings via the Internet. For guidance, see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website at www.ferc.gov/docs-filing/efiling.asp. Alternatively, an original and eight copies of all documents may be mailed to:

The Secretary
Federal Energy Regulatory Commission
Mail Code: DHAC, PJ-12.7
888 First Street, N.E.
Washington, D.C. 20426.

By copy of this letter, we are also requesting any comments on the Georgetown Forebay drawdown and turbid water release from the copied resource agencies. If you have any questions regarding this matter, please contact Mr. John Acdo at (415) 369-3335.

Sincerely,



Thomas J. LoVullo
Chief, Aquatic Resources Branch
Division of Hydropower Administration
and Compliance

Enclosure: September 28, 2011 letter from the town of Georgetown, CO

c: Town Administrator
Town of Georgetown
P.O. Box 426
Georgetown, CO 80444-0426

Colorado Department of Public Health and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246

Project No. 2187-041

- 4 -

Colorado Division of Wildlife
6060 Broadway
Denver, CO 80216

U.S. Fish and Wildlife Service
Ecological Services
Colorado Field Office
P. O. Box 25486, DFC (MS 65412)
Denver, CO 80225-0486

Bureau of Land Management
Royal Gorge Field Office
3028 East Main Street
Cañon City, CO 81212

The Town of Georgetown

September 28, 2011

P.O. Box 426
Georgetown, Colorado 80444-0426
(303) 569-2555

Robert Finucane, Regional Engineer FERC, Office of Energy Projects
Division of Dam Safety and Inspections
San Francisco Regional Office
100 First Street, Suite 2300
San Francisco, CA 94105-3084

Re: Georgetown Forebay Reservoir - Project No. 2187
Public Service Company Georgetown Hydroelectric Project

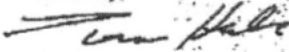
Dear Mr. Finucane,

The Town of Georgetown is informing FERC of recent activities undertaken by licensee, Public Service Company of Colorado, to request FERC's assistance in obtaining appropriate compensation for the Town and assurance that this action will not be repeated. On Wednesday September 21, 2011, Public Service Company released all the water from the Georgetown Forebay Reservoir into South Clear Creek. Please see the enclosed pictures. Mud filled the entire creek from the Forebay to the Georgetown Lake. The mud closed the water filtration plant for approximately 24 hours causing a substantial reduction water shortage in the town. The residue is along the stream banks, but most will settle out in the water storage at Georgetown Lake thereby creating sediment problems for the management of that facility. No downstream users were notified. The Colorado Department of Health was notified of the discharge and is assessing the overall damage. It is our understanding that an enforcement action is planned. The Colorado State Wildlife and Park Service is assessing the level of damage to the fisheries.

One of the greatest concerns is the potential toxicity of the mud. The Forebay reservoir is at the junction of South Clear Creek and Leavenworth Creek and is the first "settling" pond for the highly mineralized outflow from the heavily mined Waldorf Basin. Leavenworth Creek does not support any fish. The Public Service Company application for license page E-43 indicates an intent to dredge the Forebay occasionally and Article 402 of the license granted to the Company describes the testing and disposal required for that dredging. Apparently Public Service plans to handle this problem through a mud valve rather than dredging. The September 24 drawdown was in preparation to replace a mud valve on the dam which would require another complete drawdown.

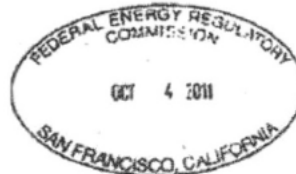
The Town is requesting FERC assistance in handling the precautionary measures that need to be taken prevent further damage to our water quality and potentially protect our intake and treatment plant from future intentional or accidental release.

Sincerely,



Town Administrator
Town of Georgetown
303/569-2555 ex 3
303/726-4477 mobile
etownadmin@earthlink.net

cc: Preston Gibson, XCEL



**Water Quality Control Division
Colorado Department of Public Health and Environment**

**Discharge/Release Follow-up Report
Spill Case Number 2011-0694**

Prepared by: Kelly Jacques, District Engineer

Telephone: (303) 692-3588

Email: Kelly.Jacques@state.co.us

Manager/Supervisor Approval: Bret Icenogle

Date: November 8, 2011

Responsible Party: Xcel Energy

CDPS/PWSID #: N/A

Legal Name of Plant/System: Cabin Creek Hydro

Location: Guenella Pass Road, Clear Creek County

Responsible Party Contact: Christine E Johnston, Senior Environmental Analyst

Contact Telephone #: 303-294-2224

Date(s) of inspection, sample collection or review:

Spill was called into the 24 hour Incident Hotline on September 21, 2011 by the Clear Creek Sheriff at 4:08 PM. The Engineering Section was alerted via the Incident Hotline on September 22, 2011 at 8:40 AM. A site visit was conducted on September 22, 2011 and follow-up occurred over the following week.

Background:

- Detail is available in Appendix II (Field Investigation Checklist)
 - 10:30AM 09/22/2011 – Met with John Curtis (Town of Georgetown Water/Wastewater Superintendent) and Tom Hale (Town of Georgetown City Administrator) at Town Hall to discuss the incident. John stated that the Drinking Water Plant was not in operation at the time due to sediment inundation of their intake and treatment system.
 - 11AM 09/22/2011 – Mr. Curtis and I drove to the forebay to Cabin Creek Hydro Electric Plant above the Town of Georgetown along County Road 381 (Guenella Pass Road) where we met Christine E Johnston (Xcel Senior Environmental Analyst), Larry Claxton, Jr. (Xcel Senior Agent), and several others at the origin to the sediment discharge. This discharge was caused by the draining of this forebay in an effort by Xcel to obtain a bid for work that may occur next summer. At the time of Mr. Curtis and my arrival the discharge had nearly ceased. I spoke with Ms. Johnston about the incident to which she concurred that the sediment laden water was from their work at the forebay. Photos were taken at the site (Attachment I)
 - 11:15AM 09/22/2011 – Mr. Curtis and I then drove to the Georgetown Water Treatment Plant where we met several of the operators there who were working to dig out the sediment from the intake for the plant. There, using the Plant's laboratory equipment, we ran analyses for pH, temperature, and turbidity of the raw water to the Plant. pH was measured at 6.55, temperature

- at 7.7 °C, and turbidity could not be read due to the extremely high levels. Photos of the intake, water quality in the stream at the time of the response, and analysis equipment and results were photographed (Attachment I).
- 12:15PM 09/22/2011 – Mr. Curtis and I completed the field response activities at the Georgetown Reservoir where photos were taken of apparent settling of the release sediment.
 - 12:35PM 09/22/2011 – I met with Mitchell Brown of the Clear Creek County Public and Environmental Health Department to discuss the discharge and possible public health concerns. Primarily we discussed the impact to the Town's drinking water plant and the limited storage capacity of finished water due to current tank construction.
 - Time Not Noted 09/22/2011 – After I left Mr. Brown, Mr. Curtis met me to hand off the water samples he had taken the previous day just outside of the Plant. Results are available in Attachment III.
 - September 26, 2011 – 5-day spill report was issued to Xcel via email to Ms. Johnston.
 - October 3, 2011 – Response to 5-day spill response was received from Xcel (Attachment IV).

Other Information:

1. Ordering paragraph (E) of Xcel's project License (74 FERC 62,097. Order Issuing Subsequent License (Minor Project) Issued February 28, 1996) requires compliance with the standard license articles set forth in Form L-16. Standard license Article 14 requires Xcel to be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution.
2. Article 402 of the same license stated in Item 1 above requires that at least 90 days before the start of dredging activities, that Xcel should file for Commission approval, a plan to conduct test for, minimize inputs of, and safely dispose of contaminated sediments and spoils. Although Xcel did not dredge as part of this discharge event, per requirements in Item 1 above, evaluation of the need to conduct dredging and consequently file for Commission approval should have been conducted.

Attachments include:

Attachment I: Photos;

Attachment II: Field Investigation Checklist Spill No. 2011-0694;

Attachment III: State Lab Sample Results Spill No. 2011-0694;

Attachment IV: 5-Day Spill Report Spill No. 2011-0694;

Attachment V: CDPHE Email of 5-Day Spill Request Form to Potential Responsible Party Spill No 2011-0694;

Attachment VI: CDPHE Environmental Release and Incident System Report Spill No. 2011-0694

Attachment I: Photos

Town of Georgetown
South Clear Creek Release
Spill Reference No. 2011-0694

Photo date: 09/22/2011



Photo 1: 9/22/2011 at 11:03AM, Photo Direction: Southeast. Depiction of the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.



Photo 2: 9/22/2011 at 11:04AM, Photo Direction: South. Photo was taken to show the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.

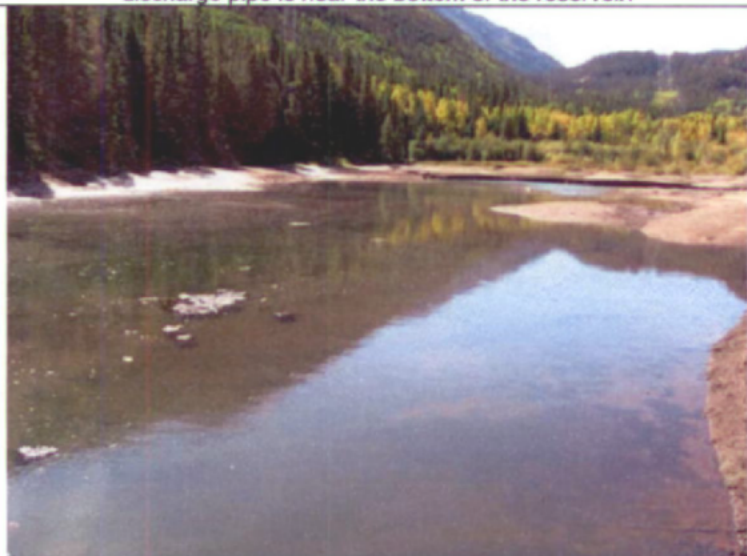


Photo 3: 9/22/2011 at 11:11AM, Photo Direction: South. Depiction of the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.



Photo 4: 9/22/2011 at 11:11AM, Photo Direction: East. Depiction of the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.

Attachment I: Photos

Town of Georgetown
South Clear Creek Release
Spill Reference No. 2011-0694

Photo date: 09/22/2011



Photo 5: 9/22/2011 at 11:04AM. Photo Direction: North. Time stamp approximately when the discharge was ceased.



Photo 6: 9/22/2011 at 11:30AM, Photo Direction: N/A. Town of Georgetown's pH and temperature reading representative of the influent water quality at the plant.



Photo 7: 9/22/2011 at 11:27AM, Photo Direction: N/A. Town of Georgetown's turbidity reading of influent water quality at the plant. The HACH 2100P Turbidimeter was unable to analyze the sample due to extreme turbidity of it.



Photo 8: 9/22/2011 at 11:27AM, Photo Direction: N/A. Visual quality of an influent water sample to the Town of Georgetown's drinking water plant.

Attachment I: Photos

Town of Georgetown
South Clear Creek Release
Spill Reference No. 2011-0694

Photo date: 09/22/2011



Photo 9: 9/22/2011 at 11:49AM, Photo Direction: Unknown. Visual quality of the influent water at the intake to the Town of Georgetown's drinking water plant.



Photo 10: 9/22/2011 at 11:52, Photo Direction: N/A. Inundation of sediment inside the Town of Georgetown's intake structure.



Photo 11: 09/22/2011 at approx 12:00PM, Photo Direction: Northeast. South Clear Creek water quality at the Georgetown drinking water plant, looking downstream.



Photo 12: 09/22/2011 at approx 12:00PM, Photo Direction: Southwest. South Clear Creek water quality at the Georgetown drinking water plant, looking upstream.

Attachment I: Photos

Town of Georgetown
South Clear Creek Release
Spill Reference No. 2011-0694

Photo date: 09/22/2011



Photo 13: 9/22/2011 at 12:16PM, Photo Direction: Southeast. Georgetown Reservoir water quality. The dark ring of sediment is believed to be from the Xcel forebay discharge event.



Photo 14: 9/22/2011 at 12:17PM, Photo Direction: Southeast. Close-up of the Georgetown Reservoir water quality and dark sediment.



Photo 15: 9/22/2011 at 12:19PM, Photo Direction: Northwest. Georgetown Reservoir water quality. The dark washout below the water is believed to be from the Xcel forebay discharge event.



Photo 16: TOWN OF GEORGETOWN PHOTO – Photo of the draining forebay on 09/21/2011.

Attachment I: Photos

Town of Georgetown
South Clear Creek Release
Spill Reference No. 2011-0694

Photo date: 09/22/2011



Photo 17: TOWN OF GEORGETOWN PHOTO – Water quality of South Clear Creek across the road from Town Hall on 09/21/2011..



Photo 18: TOWN OF GEORGETOWN PHOTO – South Clear Creek on the left merging with Clear Creek on the right on 09/21/2011.

Field Investigation Checklist - Spill No. 2011-0694

Date/Time of Arrival On-scene		10:30AM 09/22/2011
Location (address or GPS coordinates)		Town of Georgetown City Hall
Persons On-scene and affiliation (get cards if can)		Town of Georgetown: John Curtis (Water/Wastewater Superintendent) and Tom Hale (City Administrator)
Summary of Physical Evidence Given by Another Party to the Division		
Type	Person From	Date/Time of Item
Photos of incident on 9/21/0211 (See Attachment I)	Tom Hale (City Administrator)	09/21/2011, Time not noted - contact Tom Hale and John Curtis
Type	Person From	Date/Time of Item
Two 1 liter poly sample bottles taken during the 09-21-11 discharge event	John Curtis (Water/Wastewater Superintendent)	09/21/2011 at 1:30PM - note that the laboratory results have the date incorrect by one day. The time is accurate
Summary of Physical Condition On-scene		
Water Color	South Clear Creek at City Hall was dark and turbid.	
Odor	No odor was noted by the Division responder	
Visual Sheen	No sheen was noted by the Division responder	
Area Uses (Industry, Mining, extra)	Upstream there is a drinking water pull for the Town of Georgetown, historical mining is in the watershed, recreation, fishing and hydro power generation are downstream uses of this location.	
Fish Kill (contact DOW if not done already)	None noted by DOW	
Origination	Cabin Creek Hydro drainage of the forebay described below	
Date/Time of Arrival On-scene		11AM 09/22/2011
Location (address or GPS coordinates)		Forebay to the Cabin Creek Hydro above the Town of Georgetown along County Road 381 (Guenella Pass Road)
Persons On-scene and affiliation (get cards if can)		Town of Georgetown: John Curtis (Water/Wastewater Superintendent), Christine E Johnston (Xcel Senior Environmental Analyst), Larry Claxton, Jr (Xcel Senior Agent), and several others
Summary of Physical Evidence Given by Another Party to the Division		
Type	Person From	Date/Time of Item
None	N/A	N/A
Summary of Physical Condition On-scene		
Water Color	Very turbid, obvious sluffing of settled sediment through the discharge (refer to Attachment I)	
Odor	No odor was noted by the Division responder	
Visual Sheen	No sheen was noted by the Division responder	
Area Uses (Industry, Mining, extra)	Downstream there is a drinking water pull for the Town of Georgetown, historical mining is in the watershed, recreation, fishing and hydro power generation are additional downstream uses of this location.	
Fish Kill (contact DOW if not done already)	None noted by DOW	
Origination	Cabin Creek Hydro drainage of the forebay	

Field Investigation Checklist Continued - Spill No. 2011-0694

Date/Time of Arrival On-scene		11:15AM 09/22/2011	
Location (address or GPS coordinates)		Georgetown Water Treatment Plant	
Persons On-scene and affiliation (get cards if can)		Town of Georgetown: John Curtis (Water/Wastewater Superintendent), and several operators	
Summary of Physical Evidence Given by Another Party to the Division			
	Type	Person From	Date/Time of Item
	None but photos show Turbidity results of the Town of Georgetown's water sample (refer to Attachment I)	N/A	N/A
Summary of Physical Condition On-scene			
	Water Color	Very turbid, the intake for the Georgetown Water Treatment Plant was inundated with silt and was forced to shut down (refer to Attachment I). An operator noted that usually the intake is 4 feet deep. At the time of this visit there was less than 1 foot of available space for water.	
	Odor	No odor was noted by the Division responder	
	Visual Sheen	No sheen was noted by the Division responder	
	Area Uses (Industry, Mining, extra)	Historical mining is in the watershed, recreation, fishing and hydro power generation are additional downstream uses of this location.	
	Fish Kill (contact DOW if not done already)	None noted by DOW	
	Origination	Cabin Creek Hydro drainage of the forebay described below	
Date/Time of Arrival On-scene		12:15PM 09/22/2011	
Location (address or GPS coordinates)		Georgetown Reservoir	
Persons On-scene and affiliation (get cards if can)		Town of Georgetown: John Curtis (Water/Wastewater Superintendent)	
Summary of Physical Evidence Given by Another Party to the Division			
	Type	Person From	Date/Time of Item
	None	N/A	N/A
Summary of Physical Condition On-scene			
	Water Color	Sediment plumb was visible and water was obviously more turbid at the inlet than further into the reservoir	
	Odor	No odor was noted by the Division responder	
	Visual Sheen	No sheen was noted by the Division responder	
	Area Uses (Industry, Mining, extra)	Recreation, fishing, and hydro electric power generation	
	Fish Kill (contact DOW if not done already)	None noted by DOW	
	Origination	Cabin Creek Hydro drainage of the forebay described below	
Samples Collected			
	ID	S Clear Creek	Lab Sample Number ENV-2011011519
	Sample Collector Initials	JC (John Curtis - Town of Georgetown Water/Wastewater Superintendent)	
	Date/Time	09-22-11/1:30PM	Note that the laboratory results state the incorrect sample collection date
	Location	Georgetown Water Plant Intake	
	Field pH	Unknown at the time the sample was collected	However pH of a grab the following day from the same location was 6.55 s.u
	Field Temp	Unknown at the time the sample was collected	However temperature of a grab the following day from the same location was 7.7 C
	Field Turbidity	Unknown at the time the sample was collected	However turbidity of a grab sample taken the following day from the same location was unreadable (exceeded range for a HACH 2100P Turbidimeter)

Field Investigation Checklist Continued - Spill No. 2011-0694

Photos Taken by the Division (actual photos are in Attachment I)

ID	Photo 1: Forebay to the Cabin Creek Hydro1 Water Quality 20110922.JPG	
Date/Time	9/22/2011 at 11:03AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	Southeast	
GPS of Photo Location	Not taken	
Summary of Photo	Depiction of the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.	
Notes		
ID	Photo 2: Forebay to the Cabin Creek Hydro2 Water Quality 20110922.JPG	
Date/Time	9/22/2011 at 11:04AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	South	
GPS of Photo Location	Not taken	
Summary of Photo	Photo was taken to show the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.	
Notes		
ID	Photo 3: Forebay to the Cabin Creek Hydro3 Water Quality 20110922.JPG	
Date/Time	9/22/2011 at 11:11AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	South	
GPS of Photo Location	Not taken	
Summary of Photo	Depiction of the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.	
Notes		
ID	Photo 4: Forebay to the Cabin Creek Hydro4 Water Quality 20110922.JPG	
Date/Time	9/22/2011 at 11:11AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	East	
GPS of Photo Location	Not taken	
Summary of Photo	Depiction of the overall quality of water being drawn down in the forebay. Note that the discharge pipe is near the bottom of the reservoir.	
Notes		
ID	Photo 5: Forebay to the Cabin Creek Hydro Dam Draining Stopping 20110922.JPG	
Date/Time	9/22/2011 at 11:04AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	North	
GPS of Photo Location	Not taken	
Summary of Photo		
Notes	Time stamp approximately when the discharge was ceased.	
ID	Photo 6: Georgetown Drinking Water Plant Influent Temperature and pH Water	
Date/Time	9/22/2011 at 11:30AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	N/A	
GPS of Photo Location	Not taken	
Summary of Photo	Town of Georgetown's pH and temperature reading representative of the influent water quality at the plant.	
Notes		
ID	Photo 7: Georgetown Drinking Water Plant Influent turbidity Water Quality 20110922.JPG	
Date/Time	9/22/2011 at 11:27AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	N/A	
GPS of Photo Location	Not taken	
Summary of Photo		
Notes	Town of Georgetown's turbidity reading of the influent water quality at the plant. The HACH 2100P Turbidimeter was unable to analyze the sample due to the extreme turbidity of it.	
ID	Photo 8: Georgetown Drinking Water Plant Influent Visual Water Quality 20110922.JPG	
Date/Time	9/22/2011 at 11:27AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	N/A	
GPS of Photo Location	Not taken	
Summary of Photo		
Notes	Visual quality of an influent water sample to the Town of Georgetown's drinking water plant.	
ID	Photo 9: Georgetown Drinking Water Plant Intake1 20110922.JPG	
Date/Time	9/22/2011 at 11:49AM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	Unknown	
GPS of Photo Location	Not taken	
Summary of Photo	Visual quality of the influent water at the intake to the Town of Georgetown's drinking water plant.	
Notes		

Field Investigation Checklist Continued - Spill No. 2011-0694

ID	Photo 10: Georgetown Drinking Water Plant Intake Sediment Inundation 20110922.JPG	
Date/Time	9/22/2011 at 11:52	
Direction of Photo	N/A	
GPS of Photo Location	Not taken	
Summary of Photo		
Notes	Inundation of sediment inside the Town of Georgetown's intake structure.	
ID	Photo 11: South Clear Creek Water Quality Looking Downstream at the Georgetown Drinking Water Plant 20110922.JPG	
Date/Time	09/22/2011 at approx 12:00PM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	Northeast	
GPS of Photo Location	Not taken	
Summary of Photo	South Clear Creek water quality at the Georgetown drinking water plan, looking downstream.	
Notes		
ID	Photo 12: South Clear Creek Water Quality Looking Upstream at the Georgetown Drinking Water Plant 20110922.JPG	
Date/Time	09/22/2011 at approx 12:00PM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	Southwest	
GPS of Photo Location	Not taken	
Summary of Photo		
Notes	South Clear Creek water quality at the Georgetown drinking water plan, looking upstream.	
ID	Photo 13: Georgetown Res Influent Water Quality1_Dark Sediment believed to be from the Xcel forebay discharge 20110922.JPG	
Date/Time	9/22/2011 at 12:16PM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	Southeast	
GPS of Photo Location	Not taken	
Summary of Photo	Georgetown Reservoir water quality. The dark ring of sediment is believed to be from the Xcel forebay discharge event.	
Notes		
ID	Photo 14: Georgetown Res Influent Water Quality2_Dark Sediment believed to be from the Xcel Forebay Discharge 20110922.JPG	
Date/Time	9/22/2011 at 12:17PM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	Southeast	
GPS of Photo Location	Not taken	
Summary of Photo		
Notes	Close-up of the Georgetown Reservoir water quality and dark sediment.	
ID	Photo 15: Georgetown Res Influent Water Quality3_Dark Sediment believed to be from the Xcel Forebay Discharge 20110922.JPG	
Date/Time	9/22/2011 at 12:19PM	Please note that the camera time stamp was off by an hour that day
Direction of Photo	Northwest	
GPS of Photo Location	Not taken	
Summary of Photo	Georgetown Reservoir water quality. The dark washout below the water is believed to be from the Xcel forebay discharge event.	
Notes		

PLEASE NOTE: PHOTOS OF THE RELEASE TAKEN BY THE TOWN OF GEORGETOWN ARE ATTACHED AS ATTACHMENT I AND NOT SUMMARIZED ABOVE

Statement Summary: On-scene Representatives (Name, Title, Organization, Statement, Initials, extra)

09-22-2011: Verbal Discussion between Merinel Williams (City Hall) and Kelly Jacques (Division responder) stated the smell from South Clear Creek, prior to entering Clear Creek, across from the City Hall smelled like sewer and was black for most of the day.

General Notes

Cabin Creek Hydro drained this forebay in preparation for 2012 repair work - bid stage. Did notify downstream users (Town of Georgetown Water Plant). Per Xcel representatives, the discharge began on 09-21-2011 and had been completed by approximately 11AM on 09-22-2011, upon the arrival of the Division responder.

Division responder note: the reservoir looked to have been inundated with sediment. Large washouts were noted as can be seen in Attachment I.

The Georgetown Drinking Water Plant was forced to shut down due to this incident not only on the day of it but for several days after. pH of the raw samples taken by the Water/Wastewater superintendent was 6.55 s.u. The usual pH of the raw water, per the Water/Wastewater Superintendent is between 7.6 and 8.0.

Attachment III: State Lab Sample Results Spill No. 2011-0694

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH, Executive Director and Chief Medical Officer

STATE OF COLORADO

Dedicated to protecting and improving the health and environment of the people of Colorado

Laboratory Services Division
8100 Lowry Boulevard Denver, CO 80230
PO Box 17123 Denver, CO 80217
303-692-3090
www.cdphe.state.co.us/lr



Colorado Department
of Public Health
and Environment

Laboratory Results For Sample Number: ENV-2011011519-

Site ID/PWSID

Site TOWN OF GEORGETOWN

Address

CO

Contact Kelly Jacques

Phone

Fax

Email gary.halbersleben@state.co.us

Site Description S CLEAR CREEK

Collected By TOWN OF GEC

CollectionNum

Collected 09/22/2011 13:30:00

Customer ID 00000317

Received 09/22/2011 16:24:00

Customer CDPHE-WQCD-ES

Reported 10/13/2011 00:00:00

4300 Cherry Creek Drive South

Bottles 2 L NEUT

Matrix Surface Water

Field Fluoride

Denver

CO 80246

Residual Chlorine

Temperature at Receipt

Test Name	Result	Units	MCL	MRL	Method Name	Date Analyzed	Qualifier
Dissolved Oxygen*	No TEST	mg/L	no limit	0.1	SM 4500 O	09/28/2011	
			establishe			00:00:00	
Solids, Suspended*	16000	mg/L	No Limit	10	EPA 160.2	09/26/2011	
			Establishe			00:00:00	
Metal Scan Package*							
Aluminum, Total	51	mg/L	[0.05-0.2]	0.04	EPA 200.7	09/29/2011	
						00:00:00	
Arsenic, Total	0.0067	mg/L	0.010	0.001	EPA 200.8	10/05/2011	
						00:00:00	
Barium, Total	3.4	mg/L	2.0	0.002	EPA 200.7	09/29/2011	
						00:00:00	
Beryllium, Total	0.020**	mg/L	0.004	0.001	EPA 200.8	10/05/2011	
						00:00:00	
Cadmium, Total	0.26**	mg/L	0.005	0.0006	EPA 200.8	01/01/2000	
						00:00:00	
Calcium, Total	85	mg/L	No limit	0.01	EPA 200.7	09/29/2011	
			establishe			00:00:00	
Chromium, Total	0.033	mg/L	0.1	0.001	EPA 200.7	09/29/2011	
						00:00:00	
Copper, Total	12 **	mg/L	1.3	0.005	EPA 200.7	09/29/2011	
						00:00:00	
Iron, Total	10 **	mg/L	[0.30]	0.004	EPA 200.7	09/29/2011	
						00:00:00	
Lead, Total	12.9**	mg/L	0.015	0.001	EPA 200.8	10/05/2011	
						00:00:00	
Magnesium, Total	23	mg/L	No limit	0.02	EPA 200.7	09/29/2011	
			establishe			00:00:00	
Manganese, Total	43**	mg/L	[0.05]	0.002	EPA 200.7	09/29/2011	
						00:00:00	

MRL - Minimum Reporting Limit. MCL - Maximum Contaminant Limit per EPA regulations.

BDL - Below Detection Limit. H - Holding Time exceeded. Q - Quality Control limit exceeded. NT - No Test.

Units: mg/L - milligrams per liter (ppm), ug/L - micrograms per liter (ppb), pCi - picoCuries

LSD Internet Address: <http://www.cdphe.state.co.us/lr/lrhom.htm>

Dedicated to protecting and improving the health and environment of the people of Colorado

Laboratory Services Division
8100 Lowry Boulevard Denver, CO 80230
PO Box 17123 Denver, CO 80217
303-692-3090
www.cdphe.state.co.us/lr



Colorado Department
of Public Health
and Environment

Laboratory Results For Sample Number: ENV-2011011519-

Test Name	Result	Units	MCL	MRL	Method Name	Date Analyzed	Qualifier
Molybdenum Total	<0.002	mg/L	NA	0.002	EPA 200.7	09/29/2011 00:00:00	
Nickel, Total	0.29	mg/L	0.1	0.002	EPA 200.7	09/29/2011 00:00:00	
Potassium, Total	17	mg/L	NA	0.2	EPA 200.7	09/29/2011 00:00:00	
Selenium, Total	0.0016	mg/L	0.05	0.001	EPA 200.8	10/05/2011 00:00:00	
Silver, Total	0.048	mg/L	0.1	0.001	EPA 200.8	10/05/2011 00:00:00	
Sodium, Total	320	mg/L	No Limit Establishe	0.1	EPA 200.7	10/07/2011 00:00:00	
Uranium, Total	0.16**	mg/L	0.030	0.001	EPA 200.8	10/05/2011 00:00:00	
Zinc, Total	40	mg/L	[5.0]	0.004	EPA 200.7	09/29/2011 00:00:00	
Total Solids*	16000	mg/L	No Limit Establishe	10	EPA 160.3	09/26/2011 00:00:00	

Comments:

NO TEST - The dissolved oxygen content for the sample could not be determined reliably because the 2 hour holding time had been exceeded by the time the sample was received. A discussion was had with the client about this issue and it was understood that the dissolved oxygen determination would not be performed. (rli 10/5/11)

Copper

12 ** > 1.3 mg/L

Short term exposure: Gastrointestinal distress

Long term exposure: Liver or kidney damage

People with Wilson's Disease should consult their personal doctor if the amount of copper in their water exceeds the action level.

Iron

10** > 0.3 mg/L

Blackish color; rusty sediments; bitter metallic taste; brown-orange stains; iron bacteria.

Manganese

43 ** > 0.050 mg/L

Brownish color; black stains on laundry and fixtures; bitter taste.

Uranium

MRL - Minimum Reporting Limit. MCL - Maximum Contaminant Limit per EPA regulations.

BDL - Below Detection Limit. H - Holding Time exceeded. Q - Quality Control limit exceeded. NT - No Test.

Units: mg/L - milligrams per liter (ppm), ug/L - micrograms per liter (ppb), pCi - picoCuries

LSD Internet Address: <http://www.cdphe.state.co.us/lr/lrhom.htm>

John W. Hickenlooper, Governor
Christopher E. Urbina, MD, MPH, Executive Director and Chief Medical Officer

STATE OF COLORADO

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Colorado Department
of Public Health
and Environment

Laboratory Results For Sample Number: ENV-2011011519-

0.16>0.030 mg/L

Increased risk of kidney disease.

Lead

12.9>0.015 mg/L

Infants and children: Delays in physical or mental development; children could show slight deficits in attention span and learning abilities

Adults: Kidney problems; high blood pressure

Registry Comments:

SOUTH CLEAR CREEK DISCHARGE
EMAIL TO KELLY.JACQUES@STATE.CO.US

MRL - Minimum Reporting Limit. MCL - Maximum Contaminant Limit per EPA regulations.
BDL - Below Detection Limit. H - Holding Time exceeded. Q - Quality Control limit exceeded. NT - No Test.
Units: mg/L - milligrams per liter (ppm), ug/L - micrograms per liter (ppb), pCi - picoCuries
LSD Internet Address: <http://www.cdphe.state.co.us/lr/lrhom.htm>



1800 Larimer Street
Denver, Colorado 80202-1414

October 3, 2011

Ms. Kelly Jacques
Colorado Department of Public Health
and Environment
Water Quality Control Division
4300 Cherry Creek Drive South
Denver, CO 80246-1530

RE: CDPHE Reference No. 2011-0694; Georgetown Hydroelectric Project

Dear Ms. Jacques:

On behalf of Public Service Company of Colorado ("PSCo"), this letter responds to your September 26, 2011 email regarding the discharge of water and sediment associated with PSCo's inspection and operation of its Georgetown Forebay dam on September 21 and 22, 2011. We do not believe that this event is subject to the Colorado Water Quality Control Act or the jurisdiction of the Water Quality Control Division ("Division"). The operation of the Forebay is controlled by a license issued by the Federal Energy Regulatory Commission (FERC) and an associated 401 certification from the Division, and the event was related to a release of legally stored water for purposes related to dam maintenance as allowed by Colorado water law. Although we do not have a spill reporting obligation with respect to this event, we nevertheless wanted to be responsive to your request and to provide you with further information.

Background

PSCo, an Xcel Energy company, operates the Georgetown Hydroelectric Project (Project) under a license issued by FERC, Project No. 2187. The facilities associated with the Project were constructed from 1893 through 1906. The Project began operation in 1906 and has operated continuously since that time. The Project includes a Forebay dam located on South Clear Creek upstream of the Town of Georgetown, which supplies water to a penstock and the hydroelectric plant located in Georgetown. The Forebay is approximately 2.5 surface acres and contains 7.85 acre feet of decreed water storage, although the actual storage volume available today is less than the decreed amount. Clear Lake, also part of the Georgetown Project, is located about 1.3 miles upstream of the Forebay and provides additional decreed storage to supplement winter streamflows for power generation and to keep the project operating on a continuous basis.

The Project was relicensed with FERC in the 1990s, and a new license was issued February 28, 1996. The relicensing process required a water quality certification under Section 401 of the Clean Water Act, which was provided by the Division in a letter dated April 29, 1991. The certification noted that there are "no negative water quality impacts from leaving this project in place". The FERC license here preempts the Division's jurisdiction and the FERC license and associated 401 certification operate to exempt operations at the Forebay from Regulation 31.

Forebay Inspection

PSCo is currently planning for maintenance work at the Forebay dam that is scheduled to be completed in fall 2012. The maintenance plan currently includes a number of items, including relining about 90 feet of the penstock, relining of the low-level outlet pipe, replacement of intake gates for the penstock and low-level outlet pipe, and installation of trash racks at the two inlets. This work is required due to the age of these structures and to ensure the Forebay dam is operated in a safe manner.

In order to complete the project planning and engineering of the project, an inspection of the existing facilities was necessary. This inspection required the drawdown of the reservoir so that the structures could be observed. PSCo drained the reservoir by opening the low-level outlet valve. Due to the age of the low-level outlet valve and because it had not been utilized in some time, it was uncertain about how it would function. Using this valve to drain the reservoir allowed PSCo to determine the functionality of the valve. We determined that the best time to operate the valve safely was in the fall when there was not as much head pressure on the dam, so that the valve would be easier to close and that it would not cause any undue stress on the dam. The inspection was scheduled for September 22, 2011.

The Town of Georgetown's water intake structure is located downstream of the Forebay. We expected that some sediment would be generated in this activity and wanted to ensure that Georgetown was aware of our planned activity in the event they wanted to operate their intake structure and water treatment plant in a different manner. Therefore, on September 14, PSCo's Plant Superintendent of Hydro Operations & Maintenance provided notification of our intent to empty the Forebay beginning on September 21, 2011, to the Town of Georgetown's Water/Wastewater Superintendent. Georgetown's Water/Wastewater Superintendent contacted PSCo's superintendent on the morning of September 21 to confirm that we still planned to proceed with emptying the Forebay.

While the reservoir drawdown is considered routine maintenance and thus did not require notification by PSCo, we did notify FERC during an inspection of another PSCo facility on or about August 31 that we planned to use the low-level outlet valve to drain the Georgetown Forebay. The FERC representative noted no concerns with the activity at the time of the notification.

Because water releases from the Forebay are under the jurisdiction of the Division of Water Resources, PSCo also notified the District 7 Water Commissioner of the plans to

empty the Forebay. This notification was given on or about September 15. The Water Commissioner directed PSCo to bypass water from South Clear Creek, at the same rate as inflow to the Forebay, to avoid injury to downstream water rights holders. PSCo also provided notification of the planned use of the low-level outlet valve to drain the reservoir to the State Dam Inspector on September 14 during the inspection of another PSCo facility. No concerns with the activity were noted by the State Dam Inspector.

The low-level outlet valve was opened at approximately 9 to 9:30 a.m. on September 21. It was partially closed (down to 6-inches, on a 30-inch diameter pipe) at approximately 10 to 10:30 a.m. on September 22, which allowed the Forebay to refill and eventually allow flow to bypass over the dam spillway. This was done in order to adhere to the Water Commissioner's instructions, as he again instructed us to do when he was on-site on September 22. In addition, PSCo released additional water from Clear Lake to augment the natural flows of South Clear Creek and reduce the filling time for the Forebay. The low-level outlet valve was fully closed on September 23, after the siphon to Georgetown had been established on September 22 and the Forebay was full and started to flow through the spillway.

Observations of Georgetown Reservoir and Clear Creek upstream of the Reservoir were conducted mid-day on September 22 by two PSCo agents. We noted only minor sediment deposits that appeared to have originated from the Forebay in Clear Creek immediately upstream of the first pond of the Reservoir. No fish impacts were noted. We noted some very small fish swimming in this same area. We also noted minor sediment deposits in the first pond of the Reservoir and again some very small fish. There were also many people fishing in Georgetown Reservoir in the area where the first pond flows into the primary Reservoir. We also noted sediment deposited immediately downstream of the Georgetown Forebay dam.

PSCo believes that any sediment deposition that occurred as a result of emptying the Forebay is temporary in nature, not harmful to the environment, and will be mitigated during high flows in the spring. An inspection of South Clear Creek from the vicinity of the Georgetown Hydroelectric Plant to Georgetown Reservoir on Friday, September 30, noted that the channel had already been mitigated of any significant sediment.

Future Operations

We are continuing to plan for the maintenance work described above for the fall of 2012. We are investigating alternative methods for emptying the Forebay in preparation for the 2012 work that may not rely exclusively on utilizing the low-level outlet valve. We do intend to utilize the low-level outlet valve in the future to ensure that proper storage is maintained in the Forebay to allow us to exercise the water rights associated with the Project and power generation. The other purpose of the valve is for dam safety. If there is ever a concern with the dam, we must have a way to quickly empty the reservoir.

The design of the Georgetown Forebay is not unusual. Many diversion structures and low-head dams have low-level outlet works for both dam safety and to clear sediment

that accumulates behind the structure. Ordinarily, the sediment is cleared when flows in the stream are high (i.e. spring) so that there is sufficient flow to push the sediment and to minimize the impact on the stream. (As noted above, we felt it necessary to test the valve this fall when there was not as much head pressure on the dam, to avoid undue stress on the dam.) We do not believe that municipalities, irrigation companies, and other diversion dam owners typically provide notice to the Water Quality Control Division prior to these activities, or that such notice is required.

Although there were communications between PSCo and Georgetown regarding draining the Forebay well in advance of the activity, we are aware that some in the County and the Town did not believe that they had been provided adequate notification about our activities at the Forebay. We plan to meet with local officials to discuss any concerns they may have and how we intend to handle notifications for our future activities associated with hydroelectric facilities on South Clear Creek.

Please note that the information provided above is based on the available information which has been provided to me as of this date and is based on ongoing discussions and investigations being undertaken internally.

Please contact me at (303) 294-2165 if you have any questions.

Sincerely,



Quinn V. Kilty
Manager, Air and Water Quality

From: Jacques, Kelly
Sent: Monday, September 26, 2011 11:27 AM
To: 'christine.johnston@xcelenergy.com'
Subject: Xcel Reservior Discharge (CDPHE Spill Reference Number 2011-0694) 5-day Spill Response
Attachments: Blank_Fax_Spill_Report_Cover_Pg.Denver Office.doc; CDPHE Spills Tracking System Data Entry Form 2011-0694.pdf

Christine:

Thank you for taking time to speak with me at your site regarding the discharge which occurred from reservoir draining activities last week. Attached is the Colorado Department of Public Health and Environment (CDPHE) – Water Quality Control Division's (Division) 5-day Spill Report form. This report must be returned to the Division in 5 business days of the date of this email. A return email with this the information required in this report is acceptable.

Per our discussion, my onsite observations, and discussions with the Town of Georgetown, it is my understanding that during draining activities heavily sediment laden water was discharged to South Clear Creek for more than a day. This discharge impacted downstream users, including but not limited to the Georgetown Drinking Water Plant. Effects of the discharge were noted into to the Georgetown reservoir.

Please note that the Act [§25-8-601(2) C.R.S.] says "Any person engaged in any operation or activity which results in a spill or discharge of oil or other substance which may cause pollution of the waters of the state contrary to the provisions of this article, as soon as he has knowledge thereof, shall notify the division of such discharge."

Also attached to this email is the spill report generated by CDPHE as a result of this incident.

Please let me know if you have any questions.

Sincerely;

Kelly Jacques
District Engineer
Water Quality Control Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, Colorado 80246-1530
Telephone: (303) 692-3588
24-Hour Spill Reporting: (877) 518-5608
Fax: (303) 782-0390
<http://www.cdphe.state.co.us/wq/engineering/techhom.html>

CDPHE Environmental Release and Incident System Report

Print date 9/22/2011

CASE NUMBER: 2011-0694 DATE ENTERED: 9/22/2011 TIME ENTERED: 8:40
WHO TOOK REPORT: ANN NEDROW DATE REPORTED: 9/21/2011 TIME REPORTED: 4:08:00 PM
NRC NUMBER:

CALLER: CLEAR CREEK SHERIFF OCF DISPA CONFIDENTIAL: Cle PHONE:
ORGANIZATION: CLEAR CREEK COUNTY SHERIFF'S OFFICE DISP
STREET: 405 ARGENTINE ST
CITY: GEORGETOWN COUNTY: CLEAR CREEK
STATE: CO ZIP CODE: 80444-

POTENTIALLY RESPONSIBLE PARTY XCEL ENERGY

PRP CONTACT: UNKNOWN PRP PHONE:

ADDRESS: 1800 LARIMER ST FAX:

CITY: DENVER COUNTY: DENVER

STATE: CO ZIP CODE 80202-

EVENT DATE: 9/21/2011 EVENT TIME: 4:00:00 PM

LOCATION CABIN CREEK POWER PLANT NEAR GEORGETOWN

MILE MARKER:

CITY: GEORGETOWN COUNTY: CLEAR CREEK

Latitude:

STATE: CO ZIP CODE

Longitude:

TYPE OF MATERIAL OTHER

MATERIAL1:	QUANTITY1:	UNIT1:	QTY TO WATER1:	UNIT1:
MATERIAL2:	QUANTITY2:	UNIT2:	QTY TO WATER2:	UNIT2:
MATERIAL3:	QUANTITY3:	UNIT3:	QTY TO WATER3:	UNIT3:

SOURCE: X

SOURCE TYPE BAY AT POWER PLANT

CAUSE: OTHER

CAUSE INFORMATION: Report is that Xcel has begun draining #4 bay at the Cabin Creek Power Plant, and is releasing mud and silt to the Leavenworth and Clear Creek. It is thought that only organic materials are being released. The creek is ranging from cloudy to black.

MEDIUM IMPACTED: WATER

☐ Fixed Facility☐ Land☐ Air☐ Groundwater☒ Surface Water

Waterway Impacted:

NUMBER OF DEATHS: 0

NUMBER OF INJURIES: 0

EVACUATION: N

NUMBER EVACUATED:

CDPHE Environmental Release and Incident System Report

Print date 9/22/2011

ACTION TAKEN: Clear Creek County Sheriff's Office Dispatch notified downstream users.

CDPHE NOTIFIED: WQCD: NICOLE OWENS, DAVID KURZ, JENNIFER MILLER, DAVID HEINTZ, DOWG CAMRUD, KELLY JACQUES, BRET ICENOGLE, NATHAN MOORE, MATTHEW CZAHO; CLEAR CREEK COUNTY EH: MITCH BROWN

COMMENTS:

RESPONDERS:

RESPONDER COMMENTS:

ADDITIONAL COMMENTS:



**UPPER CLEAR CREEK
WATERSHED ASSOCIATION
P. O. BOX 3058
IDAHO SPRINGS, CO 80452**

November 4, 2011

Ms. Christine Johnston
Senior Environmental Analyst
Xcel Energy
1800 Larimer Street, Suite 1300
Denver, CO 80202

Dear Ms. Johnston,

As the 2011 Chair of the Upper Clear Creek Watershed Association (UCCWA), I am writing to invite you to make a short presentation at the November 10 UCCWA meeting. We need your help to understand the relationship between Xcel and water quality in the Clear Creek watershed. Specifically, please discuss the locations and water uses of the Xcel facilities. We believe that these would include: Upper and Lower Cabin Creek reservoirs, Murray, Silver Dollar and the Forebay area. Please add any others that are not listed. In particular, please provide the following information:

1. What water flows into the facility (e.g. Leavenworth Creek, South Clear Creek, etc.)?
2. What is the annual water flow through, and capacity of each facility?
3. What chemicals are used in each facility, and do these remain in the sludge that is occasionally cleared out?
4. How often is each facility cleaned out or flushed?
5. What steps are taken to remove toxic pollutants before flushing, and how are these materials disposed?

A handout with a map of facility locations would be most helpful.

Recently, Xcel had two reported releases into Clear Creek:

1. On September 20: 2,000 gallons of a bentonite slurry ran into the creek. This may not be toxic to humans, but it has the potential for sticking to fish gills and impacting their health. (Fishing is an increasingly important economic source in this watershed.) The cloudy water was visible in Idaho Springs.
2. On September 21, an unknown amount of black, "organic" material was drained from the Xcel Forebay. Despite short-term notification, Georgetown water intakes were clogged by this material. Downstream intakes—the Black Hawk intake east of Idaho

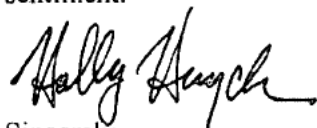
Springs, and the Golden intake—did not experience impacts. So, as you have noted, the released material seems to have been captured by Georgetown reservoir. The attached sample analysis, provided by CDPHE, indicates high levels of metals, with several exceeding EPA standards for health and/or Colorado Water Quality Control Commission standards per Regulation #38 for Clear Creek segments 2a and 3a. The high metal content is not particularly surprising, since the Forebay includes drainage from mined areas, such as Leavenworth Creek area.

What is puzzling to UCCWA members is why the material was released without any apparent treatment to meet stream and health standards. So, for your presentation, please comment on how Xcel will prevent releases of such material in the future:

1. What procedures does Xcel have in place to remove pollutants from effluent before releasing it? In particular, how will metals be reduced, and how will that material be properly disposed?
2. UCCWA is a member of the Clear Creek Watershed Agreement, which implements voluntary reduction of nutrients (particularly phosphorous) in order to maintain the existing trophic status of Standley Lake. So, we are sensitive to releases with high phosphorous content. What is the phosphorous content of these releases?
3. What is the current pre-release notification time for Georgetown Water intakes? Should that be increased to prevent clogging in the future?
4. What permits are required for Xcel's releases, and what agency administers them?

As I promised, I have a CD with the time-travel study for releases along Clear Creek. It is used by our water utilities to know when to close intakes after a spill. I hope that this will help your group to understand the watershed better, as well.

Thank you for your offer to attend our meeting in November. I understand that you were planning to answer questions. That is why I have assembled the above questions from our members. Our request for a more formal (but brief) presentation will help all of us to learn about the interactions of Xcel and UCCWA to protect water quality. We all want to be "Responsible by Nature," as the Xcel logo notes. We look forward to working with you to implement that sentiment.



Sincerely,
Holly Huyck, Chair

cc: Ben Moline, Vice Chair; UCCWA membership